Introduced: 3/14/2024 **Current Status:** Agenda Ready

Version: 1 **Matter Type:** BoS Resolution

PLN220090 - CALTRANS/GARRAPATA BRIDGE RAIL

Public hearing to consider California Department of Transportation's ("Caltrans") appeal of the Garrapata Creek bridge rail replacement project on Highway 1, Big Sur.

Project Location: Garrapata Creek Bridge near post mile 63.0 on HWY 1, Big Sur Land Use Plan.

Proposed California Environmental Quality Act ("CEQA") action: Finding that denial of the project is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

1) Find that denial of the project is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270;

2) Deny Caltrans' appeal of the Planning Commission's decision to deny a permit for the Garrapata Creek Bridge Rail Replacement Project (PLN220090); and

3) Deny a Combined Development Permit consisting of:

a. A Coastal Development Permit and Design Approval to allow the replacement of the bridge rails on the historic Garrapata Creek Bridge;

b. A Coastal Development Permit to allow development within the Critical Viewshed;

c. A Coastal Development Permit to allow development within 750 feet of known archaeological resources; and

d. A Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat.

A draft resolution, including findings with evidence is attached for consideration (**Attachment B**).

PROJECT INFORMATION:

Agent: Jason Wilkinson

Project Applicant: California Department of Transportation (Caltrans)

Zoning: WSC/40-D

Plan Area: Big Sur Land Use Plan

Flagged and Staked: No (visual simulations provided)

SUMMARY:

The California Department of Transportation ("Caltrans") proposes to remove and replace the bridge rails on the Garrapata Creek bridge. The existing bridge rails on Garrapata Bridge are steel reinforced concrete rails with arched openings constructed in 1931 with the original bridge. The rails are showing signs of advanced deterioration with areas of exposed rebar and concrete spalling. Caltrans desires to

replace the deteriorating rails with new bridge rails that comply with current safety standards. Caltrans has adopted a policy of compliance with current Manual for Assessing Safety Hardware ("MASH") standards for all bridge rails on state highways and has also adopted the American Association of State Highway Transportation Officials ("AASHTO") "LRFD BDS-8" bridge design standards with California amendments.

On March 8, 2023, the Monterey County Planning Commission considered the application and denied the project, finding the project inconsistent with the Big Sur Coast Land Use Plan, as the reduced width and number of openings reduce visual access for the travelling public and the proposed design does not meet the exacting standards for visual resource protection in the plan area, that other design options had not been given adequate consideration. The Planning Commission also found that the project has the potential to adversely impact considerations on the rail replacement process for the other "Big Sur Arches," as those rail replacements are proposed in the future. Caltrans appealed the Planning Commission's denial to the Board of Supervisors on March 23, 2023. Caltrans' appeal contends that the Planning Commission decision was not supported by the evidence and contrary to law.

Caltrans' appeal on the project was considered by the Board of Supervisors at their December 6, 2023, meeting. After consideration, the Board adopted a motion of intent to deny Caltrans appeal, uphold the Planning Commissions denial of the project, and direct staff to return with prepared findings supporting denial in January 2024. The Board's reasons for the motion to deny the project included: a recognition of hazards that exist along the entire stretch of highway rather than just this Bridge; the exceptional nature of Big Sur and Highway 1; the importance of these historic bridges both culturally and for tourism; and the potential for design exceptions or alternatives to preserve the visual and historic character. A resolution with detailed findings and responses to appeal contentions is included as **Attachment B**.

On February 23, 2024 Caltrans submitted a supplemental package of materials including a letter dated February 23, 2024 from District 5's Deputy Director of Environmental Analysis; a letter from the new State Bridge Engineer dated February 13, 2024; the previous state bridge engineer's letter dated March 21, 2023; letters of support for the project from the California Highway Patrol and California State Parks' Monterey District; a user guide to bridge standard details; and a comparison diagram of the progression in safety standards requiring additional supporting steel, which uses the upgraded Nojoqui Creek Bridge as an example. Caltrans District 5 Traffic Division Chief submitted a revised version of the cover report for this supplemental package dated March 6, 2024. The most current supplemental package is included as **Attachment I.**

In summary, Caltrans staff argue that the proposed design of the bridge rails, which was developed in coordination with an Aesthetic Design Review Committee, has resulted in architectural changes that attempt to protect visual and historic values without compromising health and safety standards. County staff have researched alternatives and it appears that either new bridge rails can be designed and then subjected to crash testing, or the State Bridge Engineer can consider exceptions to existing standards. If a new design subject to crash testing were to be explored, it is likely that current health and safety standards would drive the need for a bulkier rail than currently exists, making it difficult to anticipate if this option would better achieve the visual and historic resource protection standards. Regarding the

ability for the State Bridge Engineer to make exceptions, Caltrans has provided letters from the State Bridge Engineer indicating that exceptions to the standards will not be approved for the new bridge rail design, whether those exceptions entail modification to the MASH crash testing standards or the dimensional requirements from the American Association of State Highway and Transportation Officials (AASHTO) "LRFD BDS-8." The State Bridge Engineer did not provide any specific description of the exceptions considered in this case, or the reasons exceptions were not appropriate other than reference back to the federal and state standards and that they are for the protection of health and safety.

In this case, Caltrans started with a MASH compliant Type 86-H bridge rail design and made modifications to the design including arching the top of the openings, chamfering the openings, placing strong posts in places that are consistent with the existing railing, and rounding the top rail for historic and aesthetic reasons. New crash testing is not required for this design as these architectural treatments are minor alterations to a crash tested rail acceptable to Caltrans.

Many feel that the unique physical environment of Highway 1 in Big Sur warrants special considerations in the design and placement of new highway devices and exhaustive consideration should be given to the protection of Big Sur's visual and historic resources. Caltrans staff have attempted to explain the design considerations have been made and other design factors are constrained by highway safety standards. These two positions remain at odds and the precedent setting nature of a decision on this project remains a concern.

After reviewing the information submitted by Caltrans, responses to project-specific comments raised in the process of review of this permit do not appear to have been addressed. This includes comments regarding the overall dangers experienced by motorists on Highway 1 north or south of the Garrapata Creek Bridge, the lack of a shoulder on the bridge limiting pedestrian activity, and other relevant unique physical conditions that might warrant consideration of exceptions.

On March 14, 2024 staff updated the County's web page for the project with information from previous hearings and supplemental materials. After distribution of the updated page two emails were received by members of the public, and Supervisor Adams contacted staff to ask if there were examples of other historic bridges in California where design exceptions had been made. Staff had previously reached out to the State Parks Certified Local Government (CLG) email listerv to ask if any other local agencies in the state had experience with this issue. Martin Rosen responded stating he was a former environmental planner from Caltrans District 11 and that their district had preserved rails on a similar historic corridor on State Route 163. All three messages are included as **Attachment K**. More information regarding design exceptions was identified in other states, which is discussed in detail in the draft resolution **Attachment B**. The referenced 2020 AASHTO Historic Bridge Preservation Guide is available on AASHTO's website, and the referenced publications from the National Cooperative Highway Research Program (NCHRP) are available on the County's web page for the project, which is linked in **Attachment A**.

DISCUSSION:
A detailed discussion is attached as **Attachment A**.

ENVIRONMENTAL REVIEW:
Caltrans, as the Lead Agency for the project under the California Environmental Quality Act ("CEQA"), has prepared an Environmental Impact Report ("EIR") consisting of a Tier 1 program level review for the Big Sur Bridge Rail Replacement Program and a Tier 2 project level review of the Garrapata Bridge Rail Replacement Project. While not being federally funded, in the environmental analysis Caltrans found the project qualified for a Categorical Exclusion from the National Environmental Policy Act ("NEPA").

Staff is recommending denial of the project in this case. CEQA Guidelines section 15270 statutorily exempts projects which a public agency rejects or disapproves. The Board of Supervisors action to deny appeal and project would fit within this exemption and the County would not be required to act on the EIR at this time. The EIR certified by Caltrans is attached to this report for reference.

OTHER AGENCY INVOLVEMENT:
This project is being proposed by Caltrans. Prior to submitting the Coastal Development Permit for the project, Caltrans consulted with the State Historic Preservation Officer ("SHPO") to fulfill requirements of Section 106 of the National Historic Preservation Act ("NHPA"). Caltrans also undertook a Department of Transportation Act of 1966 Section 4(f) analysis under its assumption of Federal Highway Administration ("FHWA") responsibilities.

The project is in the California Coastal Zone, which is appealable to the California Coastal Commission. Coastal Commission staff have submitted a number of letters asking questions and expressing concern regarding the visual impacts of the project. Prior to the December hearing they submitted a letter urging the County and Caltrans to come to a mutually agreeable solution to this issue. No other external agencies were involved in the review of this application.

ADVISORY AND RECOMMENDING BODIES:
On November 8, 2022, the Big Sur Land Use Advisory Committee ("LUAC") considered the proposed project. The LUAC recommended approval with changes by a vote of 4 ayes to 1 no (**Attachment G**). Comments were made that the reduced opening sizes in the proposed replacement rails obscure the viewshed and the openings should be widened to their original height and width and that the historic design be maintained while attempting to meet current safety standards. One of the concerns noted is that the new design is effectively a wall as a result of the smaller openings.

On December 1, 2022, and January 5, 2023, the Historic Resources Review Board ("HRRB") considered the proposed project. After receiving additional information between the December and January meetings on the design and justification, the HRRB 6-0 with 1 absent to recommend approval of the project with 2 conditions (**Attachment H**). The first condition is that the final color be approved by the Chief of Planning to match the existing rails as closely as possible, and the second condition was that speed studies and other alternatives be explored for each bridge.

FINANCING:
Funding for staff time associated with this project is included in the FY 23/24 Adopted Budgets for HCD. A fee was collected to partially recuperate the cost of staff time associated with processing the application. No fee is collected for an appeal for projects located in the Coastal Zone.

Prepared by: Phil Angelo, Associate Planner x5731
Approved by: Craig Spencer, Acting Director of Housing & Community Development CS

The following attachments are on file with the Clerk of the Board:
Attachment A - Discussion
Attachment B - Draft Resolution
Attachment C - Proposed Project Plans
Attachment D - Alternative Designs Comparison
Attachment E - Appeal (Including Planning Commission Denial Resolution)
Attachment F - Environmental Documents (Tier I & II EIR, NEPA Exclusion)
Attachment G - Big Sur LUAC Recommendation
Attachment H - Historic Resources Review Board Recommendation
Attachment I - February 22, 2024, Caltrans Submittal Package (with updated cover letter submitted March 8 2024)
Attachment J - Caltrans and FHWA Memos
Attachment K - Additional Correspondence and Message Regarding Bridge Rail Design Exceptions

cc: Front Counter Copy; Planning Commission; Craig Spencer, Chief of Planning; Phil Angelo, Planner; Mitch Dallas, Caltrans (applicant); Eric Stevens, California Coastal Commission staff; Keep Big Sur Wild, Christina McGinnis; Martha Diehl; The Open Monterey Project (Molly Erickson); Jim Heid, Albion Bridge Stewarts; Patricia Larson, Schute, Mihaly & Weinberger; Sara Clark, Schute, Mihaly & Weinberger; Tim Gill; Christopher Grimes; Steven Harper; John Wilson; Aengus Jeffers; Patte Kronlund, Community Association of Big Sur; Rachel Goldberger, Community Association of Big Sur; Community Association of Big Sur; Mark Lemley; Constance McCoy; Richard Mitchell; Kate Novoa; Sharon Wilson; LandWatch (Executive Director); Project Files PLN220090.

Attachment A

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Attachment A – Discussion

ADDITIONAL MATERIALS

This report builds upon the information contained in the staff report prepared for the December 6, 2023 Board of Supervisors hearing on this project, and primarily contains discussion new information submitted by Caltrans staff since that hearing. Previous staff reports containing detailed discussion of the project and additional background information from the prior hearings can be found at:
https://www.co.monterey.ca.us/government/departments-a-h/housing-community-development/planning-services/library-current-major-projects/california-department-of-transportation-caltrans-garrapata-creek-bridge-rail-replacement-pln220090

Caltrans also has a website which includes information on the project, drive through photo-simulations, and the 10 design variations with 10-inch openings developed after the Planning Commission's denial of the project:
https://dot.ca.gov/caltrans-near-me/district-5/district-5-current-projects/05-1h800

CALTRAN'S SUPPLEMENTAL PACKAGE

On February 23, 2024, Caltrans submitted a supplemental package of materials including a letter from District 5's deputy director of environmental analysis dated February 23, 2024; a letter from the new State Bridge Engineer dated February 13, 2024; the previous State Bridge Engineer's letter dated March 21, 2023; letters of support for the project from the California Highway Patrol and California State Parks' Monterey District; a user guide to bridge standard details; and a comparison diagram of the progression in safety standards requiring additional supporting steel, which uses the upgraded Nojoqui Creek Bridge as an example.

On March 8, 2024, Caltrans submitted a revised version of the February 23, 2024 letter dated March 6, 2024 and signed by the District 5 Traffic Division Chief. In summary the difference between the two versions is that the February 23 letter incorrectly states that there is no exception process for new bridge elements. The March 6 letter states that the State Bridge Engineer may approve exception to the Bridge Design Specifications but would not grant such an exception. These most current version of this supplemental packet with the March 6, 2024 letter is included as **Attachment I.**

The content and responses to the letters dated February 13, 2024 and March 6, 2024 are detailed below. Three additional memos referenced in the discussion below: a FHWA memo dated March 17, 2017, clarifying the role of the FHWA in implementing MASH; a Caltrans memo dated November 12, 2019, outlining the MASH compliance Plan and Policy; and a Caltrans memo dated August 19, 2021, outlining the adoption of the AASHTO LRFD BDS-8. These are included in the staff report as **Attachment J**.

March 6, 2024 Letter from Deputy Director of Environmental Analysis

Design Exception Process – Not Applicable to Bridge Rail Replacement:

"The County had asked Caltrans to summarize the design exception process. It should be noted, for bridge rail replacement types, a design exception could be granted by the State Bridge Engineer, but both the current and former State Bridge Engineer stated that they would not grant an exception to bridge design specifications for rail opening size or barrier shape that could provide snag points.

The Department processes design exceptions (or "Design Standard Decision Document" [DSDD]) only for non-standard features such as lane width, shoulder width, side slopes, sight distances, etc. When applicable, design exceptions are at the discretion of the Project Engineer based on project circumstances or needs. However, bridge rail type is not part of the DSDD process.

What the Department is proposing is a bridge railing that was custom designed for this location and was approved based on standardized crash tests and studies that meet State and Federal safety standards and specifications, including MASH compliance. The Manual for Assessing Safety Hardware (MASH) presents uniform guidelines for crash testing permanent and temporary highway safety features and recommends evaluation criteria to assess test results. Again, both the current and former State Bridge Engineers stated that the design exception would not be granted for this bridge rail replacement."

The first paragraph is consistent with information reviewed by County staff that indicates that unique circumstances may exist and provides an avenue for State Department of Transportation to address these circumstances. For example, the Caltrans memo dated November 12, 2019, states: "If a situation arises where a MASH compliant safety device is not available to address a specific need, Caltrans must use a National Cooperative Highway Research Program (NCHRP) Report 350 approved safety device. If a NCHRP Report 350 device is not available, Caltrans must use engineering judgement to address the specific need. For cases when either a NHRP Report 350 device or engineering judgement is used for traffic safety devices, the engineer must consult with the District Traffic Safety Coordinator. The engineer must then document the decision in the project history file. These requirements apply to all projects and work done on the State Highway System." The information in the attached letter from the current State Bridge Engineer dated February 13, 2024 contradicts the first paragraph above. It has no reference to snag points, states that "There is no design exception process to grant a waiver for a bridge rail to not comply with MASH criteria," and that the "AASHTO LRDFT-BDS provide minimum standards for bridge design according to the Code of Federal Regulations."

The second paragraph states which elements of a project design are at the discretion of the project engineer.

Simply stating that the engineer will not approve an exception without any supporting analysis is inadequate to eliminate a project alternative from consideration, and what has been provided is internally contradictory.

Other examples:
"There have been comments regarding potential design exceptions in other states regarding bridge rail replacements. As noted, there are design exceptions for some non-standard features. The Department is not aware of any state that has replaced a MASH standard bridge rail on a state highway with a design that includes clear openings larger than 6 inches that does not include a bar through it (i.e. in the state of Oregon a bridge rail exists with two horizontal bar through the middle of window opening)."

The 6 inch opening width is just an example of a potential exception to consider. In 2020 AASHTO released a the "Historic Bridge Preservation Guide, 1st Edition," which includes specific discussion of design exceptions for bridge rails on historic bridges. Section 1.1 of this guide states "This Guide

is intended to be used in conjunction with the AASHTO LRFD Bridge Design Specifications (AASHTO LRFD), and may be used with the AASTHO Standards Specifications for Highway Bridges when consistent with state requirements." Section C13.4 regarding crash testing states "A design exception may be required for bridge rails that do not fully comply with applicable crash test requirements." Section C13.5 states "A design exception may be required for in-kind repair of existing rail as existing historic rails typically are not crash tested. The design exception is typically justified by some combination of lower speed, high curb, lack of significant horizontal curvature, and benign accident history."

Crash Information*:*
"Between 2013 and 2023 a total of eight crashes have been reported on and adjacent to the bridge. During this period, five crashes involved injury. In the same 10-year time period, 921 lane departure crashes occurred on Highway 1 (SLO County Line to Point Lobos) resulting in 407 fatal+injury crashes. A total of 24 people died and 532 people were injured for lane departure crashes. Lane departure crashes can be left or right of the traveled lane. Modern bridge rail design aims to redirect lane departures to keep vehicles on the highway as opposed to the road, creek, or canyon they are crossing over. Please see attached letters of support from CHP and State Parks."

Additional information and letters of support received. Caltrans' accident analysis between 1/1/2012 to 12/31/2021 states "A review of the Traffic Collision Reports (TCRs) show two collisions occurring on Garrapata Creek Bridge. One collision involved an unforeseeable mechanical failure of vehicle. The other collision involved person 1 allowing vehicle 1 to collide with the concrete barrier railing due to their level of intoxication resulting in a minor injury."

Bridge Rail Window Dimension Requirements:
"Bridges in California and in all of the United States are currently designed per AASHTO (American Association of State Highway and Transportation Officials) LRFD-BDS (Load and Resistance Factor Design - Bridge Design Specifications). Section 13 of the AASHTO LRFD-BDS, Article 13.8.1 Pedestrian Railing "Geometry" and Article 13.9.2 Bicycle Railing "Geometry" states that clear openings cannot allow a 6-inch sphere to pass in the lower 27-inch of bridge rail height, and above 27-inch height clear openings must not allow an 8-inch sphere to pass.

This clear opening requirement must be adhered to within a bridge rail, bicycle railing, or pedestrian railing wherever bicycle traffic and/or pedestrian traffic is present.

No exception process exists for these requirements."

Staff disagrees with Caltrans on the statement that "no exception process exists…" Exception processes do exist, and this appears to be acknowledged in their March 6, 2024 letter. Exceptions require analysis of unique conditions applicable to the project. In this case, there is no shoulder between the vehicle lanes and the Bridge rail (See figure below) and Caltrans has indicated that the average speed, upon which the required bridge rail engineering is based, is over 55 mph. This situation creates unique problems for pedestrians and bicyclists on the bridge. Staff has been requesting more specific reasoning on what exceptions have been considered given the unique setting and why they are not applicable. This reasoning has yet to be provided.

Adherence to Industry Standards:
"In addition to the proposed Type 86H rail (and the 10 design variation options based on Type 86H) meeting AASHTO LRFD-BDS standards and specifications, such as concrete cover spacing from steel reinforcement, spacing and placement of steel reinforcement elements from each other, the Type 86H rail was designed per AASHTO-CA BDS-8 including Finite Element Analysis, then crash tested per MASH 2016 Test Level 4 (TL-4). Reference: User Guide to Bridge Standard Detail Sheets, Section 16 – Barriers and Railings Concrete Barrier Type 86H: <https://dot.ca.gov/-/media/dot-media/programs/engineering/documents/bridgestandarddetails/chap-16/202401-xs-16-127-ug-a11y.pdf>. No exception process exists for these requirements."

It is recognized that Caltrans has made changes to the design of a crash tested bridge rail (Type 86-H) that did not modify the structural integrity of the standard bridge rail type. Through the review process, many have questioned why the design must start and end with the standard bridge rail. Many unique considerations have been offered as a potential basis for a nonstandard solutions. Caltrans has not responded directly to the unique consideration comments and it remains unclear if these circumstances were considered by Caltrans. As the February 23, 2024 letter submitted by Caltrans states exceptions are not possible, the March 6, 2024 letter states that they may but the State Bridge Engineer would not approve one, and the attached letters from the State Bridge Engineer directly contradict this, it appears that it was not. If the statute or regulation permits exceptions to these design standards, and Caltrans has no internal process for the consideration of exceptions, it may be prudent to create one, as the environmental and coastal development permit review both require this kind of alternatives analysis.

Character Defining Features*:*
"The character-defining features of the historic Big Sur Arch Bridges that were identified in the determinations of eligibility for the National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR) are the following:
• Open spandrel arch rib design
• Use of reinforced concrete
• Concrete T-beam approach spans
• Bridge deck and cantilevered walkways
• Bents

• Abutments
• Concrete railings with arched window design
The proposed bridge rail was designed to meet safety standards but also maintain the character defining concrete railings with arched windows. With input from the ADAC, the PDT further refined the Type 86H rail to incorporate chamfered edges as requested by the ADAC after Division of Engineering Services (DES) Architecture presented artist renderings of different edge options.

The view in the current rail configuration is currently blocked by the existence of the temporary guardrail section attached to the bridge rail. The bridge rail view will not be restored until the bridge rail is replaced thus allowing for the removal of the attached guardrail section."

Caltrans Finding of Adverse Effect dated December 2020 concludes that the bridge rail replacement will adversely impact the design, workmanship, and feeling of the bridge. There are often many solutions to rehabilitating historic structures., and removing and replacing a character defining feature does not preserve it.

February 13, 2024 Letter from State Bridge Engineer

"This memorandum reiterates the response by Thomas A. Ostrom in the memorandum titled "Garrapata Creek Bridge Rail Replacement Project" dated March 21, 2023, regarding the question as to whether a design exception would be granted to allow for a larger clear opening in the bridge railings on Garrapata Creek Bridge. As set forth below and as previously stated, the Department of Transportation cannot construct bridge components that violate minimum safety standards set forth in federal and state law and policy, and as such, neither wider openings nor narrower railings than those proposed by the Department may be used in the Garrapata Creek Bridge Rail Replacement Project.

Bridges in the United States are designed in accordance with specifications published by the American Association of State Highway and Transportation Officials (AASHTO). These specifications include the AASHTO LRFD Bridge Design Specifications (AASHTO LRFD-BDS), which provide the minimum standards for highway bridge design according to the Code of Federal Regulations. Bridge rail designs must meet the requirements of AASHTO LRFD-BDS, Section 13, which specifies in part that the clear opening between elements shall be such that a 6-inch-diameter sphere shall not pass through the opening. Since this is a safety requirement, a design exception cannot be granted to increase the clear openings in the bridge railing: such exception would violate state and Federal standards and jeopardize public safety."

Caltrans letter stating that adherence to these standards is required by federal law and policy contradicts the FHWA memo that states it is the State's responsibility to pick a particular hardware device in a particular location, as well as the March 6, 2024 letter that states that the State Bridge Engineer may approve exceptions but would not do so. The letter provides reference to the standards, but no detailed analysis is provided with the State Bridge Engineer's letter on why an exception would not be feasible. It is contradictory to state that the State Bridge Engineer may approve an exception to standards, but doing so is not an option.

"Additionally, all new permanent and replacement bridge railing on the State Highway System must comply with the Manual for Assessing Safety Hardware (MASH). There is no design exception process to grant a waiver for a bridge rail to not comply with MASH criteria. Attached is the MASH implementation memorandum that requires all bridge rails to be MASH compliant."

See attached Caltrans memo dated November 12, 2019 discussed above that outlines options for when a MASH compliant device is not available to address a specific need, and the March 6, 2024 letter from Caltrans stating that the State Bridge Engnineer could potentially grant an exception but would not do so.

Additional Materials

Discussion of the additional materials submitted by Caltrans with their February 23, 2024 packet are below.

Letters of Support

The letters from the California Highway Patrol and Department of Parks and Recreation Monterey District both expressed their support for the project and the importance of ensuring the safety of travelers along Highway 1.

Nojoqui Creek Bridge Rail Replacement Diagram

The diagram of the progression in safety standards shows section cuts of older bridge rails, newer ones that adhere to safety standards rails, including supporting steel. An explanation is not provided with this diagram but the standards have apparently gradually increased in structural requirements over time. The Nojoqui Creek Bridge rail replacement is included as an example. This creek is along Highway 101 south of Buellton and north of Gaviota State Park. The creek crisscrosses under the highway at multiple points. The older rails were constructed in the 1950's and underwent a replacement 2012. Images of existing rails at other areas of this corridor (construction date unknown) and the replacement rails are shown below. (These do not include the aesthetic treatments proposed at the Garrapata Creek Bridge.)

Figure 9: Bridge Rails along Nojoqui Creek Corridor (Google Maps Imagery, May 2023)

Figure 10: Type 80 Bridge Rails along Nojoqui Creek Corridor (Google Maps Imagery, May 2023)

Guide for Standard Bridge Rail Selection

The guide for standard bridge rail selection states that the 86-H (H being historic) was developed to comply with the National Historic Preservation Act (NHPA) and for use on projects that may require consultation with the State Historic Preservation Officer (SHPO). The guide has details on the use of the rail and unique considerations for specific circumstances, such as incorporation into existing bridge decks and the use of bicycle rail. It also states that the balusters can be multiple shapes (such as rounded, chamfered, square), and states that the clear openings must comply with the AASHTO-CA BDS-8 Section 13.9 Bicycle Railings and Section 13.8 Pedestrian Railing.

Conclusion

In summary the information does not address previous comments or concerns raised at the Planning Commission or Board of Supervisors hearings. The letters have contradictory information regarding design exceptions for bridge rails. The original cover letter of the package dated February 23 states there is no design exception process for bridge rails. The March 8 cover letter stating that an exception could by considered by the State Bridge Engineer but they would not grant an exception to rail opening size or barrier shape that could provide snag points. The letters from the current and former State Bridge Engineer have no reference to snag points and state that any exception would violate federal and state law and policy without any specific citations. Neither contain detailed analysis of what exceptions were considered in this case or why they would be inappropriate given the specific conditions at the Garrapata Creek Bridge. The letters of support from the California Highway Patrol and Department of Parks and Recreation Monterey District are received but don't address previous comments or concerns. The progression of Caltrans Bridge Safety Standards provides examples of why the new standards would change the design, and the User Guide to Bridge Standard Detail Sheets provides information on the selection of standards rails, but neither address inconsistencies with the Local Coastal Program or inadequate alternatives analysis.

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Attachment B

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Attachment B
DRAFT RESOLUTION

Before the Board of Supervisors
in and for the County of Monterey, State of California

In the matter of the application of:
CALIFORNIA DEPARTMENT OF TRANSPORTATION
(PLN220090)

RESOLUTION NO. ----

Resolution by the Monterey County Board of Supervisors:

1) Finding that denial of the Project qualifies for a statutory exemption from CEQA per CEQA Guidelines section 15270;
2) Denying California Department of Transportation's ("Caltrans") appeal of the Planning Commission's decision to deny the Garrapata Creek Bridge Rail Replacement Project (PLN220090); and
3) Denying a Combined Development Permit consisting of:
    a. A Coastal Development Permit and Design Approval to allow the replacement of the bridge rails on the historic Garrapata Creek Bridge;
    b. A Coastal Development Permit to allow development within the Critical Viewshed;
    c. A Coastal Development Permit to allow development within 750 feet of known archaeological resources, and
    d. A Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat areas.

[Garrapata Bridge, Highway One (near postmile 63.0), Big Sur Land Use Plan, Coastal Zone]

The California Department of Transportation (Caltrans) application for the Garrapata Bridge Rail replacement Project (Permit No. PLN220090) came on for a public hearing before the Monterey County Board of Supervisors on December 6, 2023, January 30, 2024, and March 26, 2024. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

1. FINDING: **PROCESS** – The County has processed the subject Combined Development Permit application [HCD-Planning File No. PLN220090/California Department of Transportation] ("Project") in compliance with all applicable procedural requirements.

EVIDENCE:

a) On June 1, 2022, pursuant to Monterey County Code ("MCC") Chapter 20.82, California Department of Transportation ("Caltrans" or "Applicant") filed an application for a discretionary permit to allow to allow the replacement of bridge rails on the Garrapata Bridge on Highway One, Big Sur Coast Land Use Plan area, Coastal Zone.

b) On July 1, 2022, 30 days after the filling of the application, the application was deemed complete by operation of law.

c) The Monterey County Planning Commission held a duly-noticed public hearing on the application on February 22, 2023. 10 days in advance of the hearing, notices for public hearing were published in the Monterey County Weekly; posted at and near the Project site; and mailed to vicinity property owners and interested parties.

d) On February 22, 2023, the Monterey County Planning Commission adopted a motion of intent to deny the Project and directed staff to prepare a draft resolution of denial for consideration at the March 8, 2023 Planning Commission meeting. Reasons for denial of the permit are discussed in the Findings and Evidence below.

e) On March 23, 2023, Caltrans filed a timely appeal of the Planning Commission's denial. As both the applicant and appellant, Caltrans agreed to extend the 60 day timeline for consideration of the appeal, and the matter was scheduled for a de novo hearing on December 6, 2023.

f) At the December 6, 2023 hearing the Board of Supervisors adopted a motion of intent to deny Caltrans appeal, and directed staff to return with a resolution for denial in January 2024. As the hearing on the matter was continued to a date uncertain, the Project was re-noticed. 10 days in advance of the hearing, notices for public hearing were published in the Monterey County Weekly; posted at and near the Project site; and mailed to vicinity property owners and interested parties.

g) At the January 30, 2024 hearing the Board continued the hearing on the Project to March 26, 2024.

h) The application, Project plans, and related support materials submitted by the Applicant to Monterey County HCD-Planning for the proposed development found in Project File No. PLN220090.

2. FINDING: **INCONSISTENCY** – The Project is inconsistent with the Monterey County Local Coastal Program, which includes Big Sur Coast Land Use Plan (LUP), Monterey County Coastal Implementation Plan, Part 3 (CIP), and the Monterey County Coastal Implementation Plan, Part 1 (Title 20).

EVIDENCE:

a) During the course of review of this application, the Project has been reviewed for consistency with the text, policies, and regulations in:

- the 1982 Monterey County General Plan;
- Big Sur Land Coast Use Plan (LUP);

- Monterey County Coastal Implementation Plan, Part 3 (CIP); and
- The Monterey County Coastal Zoning Ordinance (Title 20).

Written correspondence and oral testimony during the public hearings for the Project were received indicating inconsistencies with the text, policies, and regulations in these documents, specifically the Big Sur Coast Land Use Plan policies related to Scenic Resources. Comments have been considered.

b) The Project is located on State Route ("Highway" or "Hwy") 1 (postmile 63) in Big Sur. The development includes replacement of bridge rails on the Garrapata Creek Bridge. Hwy 1 is a public highway under the jurisdiction of Caltrans. The highway was built in the 1930s and was the first scenic highway in California's Scenic Highway System. Garrapata Creek Bridge is one of seven iconic concrete arch bridges known as the "Big Sur Arches" on Highway 1.

c) In accordance with the California Coastal Act, the Coastal Commission has certified the Monterey County Local Coastal Program (LCP), governing development in the Big Sur area. Development in this area must conform to the adopted standards in the LCP (Title 20 section 20.70.050.B.3).

d) Summary. The County has reviewed the Project based on the policies of the Big Sur Coast Land Use Plan (LUP), and found it inconsistent with policies in Chapter 3.2 Scenic Resources, Chapter 3.10, Historic Resources, Chapter 4 Highway 1 and County Roads, Chapter 6.1 Public Access, and implementing regulations in the Monterey County Coastal Implementation Plan Part 1 (Title 20).

e) Historic Resources. The Project is inconsistent with historic resources protection policies 3.10.1, 3.10.2.1, and 3.10.4 as discussed in Finding No. 3.

f) Visual Resources, Highway 1, and Public (Visual Access). The Project is inconsistent with the LCP policies protecting Scenic Resources, visual (public) access, and stewardship of Highway 1 as discussed in Finding No. 4.

g) Consistency with adopted Plans. Title 20, Section 20.02.060.A, requires that a Project be found consistent with the County's LCP, including the Big Sur Coast LUP and Monterey County CIP to be approved. There are only limited exceptions to this requirement which are detailed in Title 20, Section 20.02.060.B. However, the findings required to grant an exception pursuant to this section cannot be made in this case as the evidence does support a conclusion that development being approved is the least environmentally damaging project alternative. The evidence does not indicate that a reasonable range of non-standard bridge rail alternatives that balance safety with resource protection have been adequately explored. Both the EIR and Caltrans historical report discuss project alternatives which could lessen impacts to aesthetics (scenic, visual access) and/or historic resources; however, Caltrans eliminates them from consideration, in part because any other alternatives would not meet Caltrans current standards and based on the current state of the rails. The fact that the bridge rails do not meet current standards is identified as a key objective for both the "Tier 1" Big Sur Bridge Rail

Replacement Project and "Tier 2" Garrapata Creek Bridge Replacement Project. This insistence on adherence to current design standards, without exception, has thwarted meaningful consideration of alternatives. Without clear and detailed reasoning on why specific design exceptions would be inappropriate given the unique circumstances surrounding this Project, a reasonable range of design options that find the balance between safety and visual and historic resource protection cannot be explored. Detail on alternatives considered is included in Finding No. 5 and 9.

h) Cumulative Effects. The decision on this Project could influence the decision-making processes on the other bridges in Big Sur and elsewhere. Caltrans has prepared an EIR (Tier I) that discusses the need to replace railings on 6 historic bridges along Highway 1 in Big Sur. A project level EIR (Tier II) was prepared for the Garrapata Bridge rail replacement specifically since funding is not available for replacement of the other bridge rails at this time. If the assumption that all new bridge rails must conform to recommended design standards without exception is accepted in this case, similar approaches to designing replacement rails will occur on other bridges including the iconic Bixby Bridge.

While Caltrans has committed to working on a context sensitive rail design for each of these rails, no clarity on what Caltrans would be willing to consider at other locations has been provided. In Caltrans supplemental package dated December 6, 2022, District Chief of Maintenance and Caltrans' Structures Maintenance & Investigations (SM&I) states "Because the bridge rail is a safety feature, it must be brought up to MASH standards. Therefore, replacement is the only repair strategy." Similarly, no clarification has been provided if design exceptions would be pursued for other bridges, or even if a standard rail at a reduced crash test level would be considered. In a letter dated December 12, 2023, commenting on the current draft of the Big Sur Land Use Plan, Caltrans have commented that adherence to MASH should be incorporated into the plan. If the basic logic that the rail designs need to meet current standards because they are the adopted standard, and Caltrans will not consider deviations from any of its standards, it is hard to see how outcomes on future rail projects would be significantly different.

The design of one rail without consideration of the other historic bridges could result in disparate and incongruous designs. While each of the bridges and railings have differences in their design (some have rounded openings, some have chamfered openings; Wildcat Creek bridge has none, etc.), they are best understood as a group, and a consistent approach would best preserve their historic and visual character. Caltrans has stated that other bridge replacement projects are not programmed for funding at this time. However, all are in the certified EIR prepared for the Project.

i) Supplemental Information. On February 23, 2024, Caltrans submitted a supplemental package of materials including a letter dated February 23, 2024 from District 5's Deputy Director of Environmental Analysis; a

letter from the new State Bridge Engineer dated February 13, 2024; the previous State Bridge Engineer's letter dated March 21, 2023; letters of support for the project from the California Highway Patrol and California State Parks' Monterey District; a user guide to bridge standard details; and a comparison diagram of the progression in safety standards requiring additional supporting steel, which uses the upgraded Nojoqui Creek Bridge as an example. They submitted a revised version of their February 23 letter signed by their Traffic Division Chief and dated March 6, 2024 on March 8, 2024. This supplemental information was discussed in the County staff report for the March 26, 2024 hearing and does not provide any material that alters the conclusions of this resolution. The letters have contradictory information regarding design exceptions for bridge rails. The original cover letter of the package dated February 23 states there is no design exception process for bridge rails. The March 8 cover letter corrects this and states that an exception may be considered by the State Bridge Engineer but they would not grant an exception to rail opening size or barrier shape that could provide snag points. The letters from the current and former State Bridge Engineer have no reference to snag points and state that any exception would violate federal and state law and policy without any specific citations. Neither contain detailed analysis of what exceptions were considered in this case or why they would be inappropriate given the specific conditions at the Garrapata Creek Bridge. The letters of support from the California Highway Patrol and Department of Parks and Recreation Monterey District are received but don't address the analysis in this resolution. The progression of Caltrans Bridge Safety Standards provides examples of why the new standards would change the design, and the User Guide to Bridge Standard Detail Sheets provides information on the selection of standards rails, but neither address inconsistencies with the Local Coastal Program or inadequate alternatives analysis as detailed in this resolution.

j) Land Use Advisory Committee (LUAC) Review. On November 8, 2022, the Big Sur Land Use Advisory Committee (LUAC) considered the proposed Project. The LUAC recommend approval with changes by a vote of 4 ayes to 1 no. Comments were made that the reduced opening sizes in the proposed replacement rails obscure the viewshed and the openings should be widened to their original height and width and that the historic design be maintained while attempting to meet current safety standards.

k) Planning Commission. On February 22, 2023 and March 8, 2023 the Planning Commission considered the Project, including Caltrans submitted plans, documentation, and EIR; and denied it on the basis that it is inconsistent with the Big Sur Coast Land Use Plan's Scenic Resources and Public Access (visual access) policies intended to protect the renowned beauty of Highway 1 in Big Sur.

l) The application, Project plans, and related support materials submitted by the Project applicant to Monterey County HCD-Planning found in Project File PLN220090.

3. FINDING: **INCONSISTENCY (Historic Resources)** – The Project is inconsistent with the Monterey County Local Coastal Program policies protecting

Historic Resources in Chapter 3.10 of the Big Sur Coast Land Use Plan (LUP).

EVIDENCE:

a) Big Sur Coast Land Use Plan (BSC LUP) Historical Resources Key Policy 3.10.1 "It is the policy of the County to protect, maintain, and where feasible, enhance and restore the cultural heritage of the County and its man-made resources and traditions," General Policy 3.10.2.1, "New development shall, where appropriate, protect significant historical buildings, landmarks, and districts because of their unique characteristics and contribution to the cultural heritage of the County," and General policy 3.10.2.4 states, "Designated historical sites shall be protected through zoning and other suitable regulatory means to ensure that new development shall be compatible with existing historical resources to maintain the special values and unique character of the historic properties." In this context, the coastal development permit process and design approval process outlined in the zoning ordinance are the regulatory means that can be used to maintain the special values and unique character of historic properties.

b) Garrapata Creek Bridge is one of seven iconic concrete arch bridges known as the "Big Sur Arches" on Highway 1. The bridge was constructed in 1931 and is eligible for listing in the National Register of Historic Placed (NRHP) and the California Register of Historic Places (CRHR), under Criteria A/1, "Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States" for its association with the Highway Beautification Movement and construction of the Carmel-San Simeon Highway; and under Criteria C/3, "Embodies the distinctive characteristics of a type, period, region or method of construction or represents the work of a master or possesses high artistic values" as an example of reinforced concrete bridge design and engineering from the 1920s-30s. The bridges character defining features are:
   - Use of re-enforced concrete materials;
   - Open spandrel;
   - Fixed parabolic arch;
   - Six concrete T-beam approach spans;
   - Decorative cantilevered walkway; and
   - Decorative reinforced concrete railings with arched window design and smooth textured finish.

   This Project would demolish the existing decorative reinforced concrete railing, a character defining feature of the bridge, and replace it with a modern railing.

c) The Project would include removing and replacing one of the character defining features of the Bridge, diminishing its design, feeling, and workmanship. After conducting Section 106 consultation with the State Historic Preservation Officer (SHPO), it was determined that the Project would adversely affect the resource and require a "Finding of Adverse Effect" pursuant to Caltrans Programmatic Agreement with the SHPO. In this case, the adverse effect corresponds to 36 CFR 800.5.2(i), "Physical destruction of or damage to all or part of the property"; and 36 CFR 800.5.2(ii), "Alteration of a property, including restoration, rehabilitation,

repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access, that is not consistent with the Secretary's standards for the treatment of historic properties (36 CFR part 68) and applicable guidelines."

d) Caltrans has eliminated any alternatives from consideration that didn't meet current traffic safety standards as evidenced in the documents prepared for this application which state: "Caltrans considered multiple alternatives to avoid or minimize adverse effects to the bridge. To be considered viable, project alternatives must address the Project purpose and need: The purpose of the Project is to replace the existing concrete baluster bridge rail and approach rail with a rail that meets current traffic safety standards."

e) The Monterey County Historic Resources Review Board ("HRRB") reviewed the Project and adopted a resolution recommending approval of the Project with conditions. The decision came after discussion of speed reductions, design exceptions, and ultimately reliance on the premise that there were no possible alternatives to preserving the rails or securing a design exception that would allow a design that more closely resembles the historic bridge. After the HRRB's decision, more analysis revealed that design standards described in the proposal are not all directly related to compliance with MASH standards, that the State Bridge Engineer does have the ability to make exceptions to design standards, and that Departments of Transportation across the Country have utilized design exceptions to bridge design standards for historic preservation.

f) As described in the statement of significance for the Big Sur Arches, one of the critical elements of the current bridge rail design are the railings thinness and openness. As discussed in the Finding No. 4 the proposed rails do not emulate this feature. While Caltrans has made efforts to identify and minimize impacts to historic resources through design and to mitigate these impacts, a project which adversely impacts a historic resource as significant as the Big Sur Arches, including removal of a character defining feature, is inconsistent with Key Policy 3.10.1 and General Policies 3.10.2.1, 3.10.2.4.

g) Accepting that new design standards will be utilized on historic bridges regardless of their historicity also potentially sets a precedent for future projects. The character defining features of different historic resources are context specific. A historic preservation approach that finds the balance between safety and historic preservation should consider what makes each bridge unique.

h) The application, Project plans, and related support materials submitted by the Project applicant to Monterey County HCD-Planning found in Project File PLN220090.

4. FINDING: **INCONSISTENCY (Scenic Resources, Visual Access, Highway 1)** – The Project is inconsistent with the Monterey County Local Coastal Program policies protecting Scenic Resources, visual (public) access, and stewardship of Highway 1.

EVIDENCE: a) Recognizing Big Sur's outstanding scenic beauty, the Big Sur Coast Land Use Plan ("BSC LUP") sets forth incredibly strong policies that require protection of Scenic Resources. The narrative in Chapter 3.2 of the plan

states “The aesthetic and scenic qualities and semi-wilderness character of the coast have received national and even international acclaim. Accordingly, the issue of visual resource protection is probably the most significant and far reaching question concerning the future of the Big Sur coast. A major premise of this plan is that unusual action must now be taken to preserve the coast’s scenic beauty and natural appearance.” Highway 1 was the first scenic highway in the California State Scenic Highway System. In the 1940s the County made history by denying roadside advertising on a service station in Big Sur, resulting in a landmark decision upholding use of the police powers to regulate aesthetics.

b) LUP Policy 3.4.A.1. Safety improvements are exempt from the Critical Viewshed Policies pursuant to Section 3.2.5 of the LUP. However, applying the Scenic Resources Polices for projects not subject to the critical viewshed policies, the Project is inconsistent with Policy 3.2.4.1.A, which requires that public projects not detract from the natural beauty of undeveloped skylines, ridgelines, and the shoreline.

c) LUP Policy 3.2.5.C.1. Safety improvements in the Big Sur Critical Viewshed are allowed provided that they are consistent with Policies 4.1.1, 4.1.2, and 4.1.3 of the LUP. The Project is not consistent with those policies as detailed in the subsequent evidence.

d) LUP Key Policy 4.1.1. This policy states that Monterey County will take a strong and active role in guiding the use and improvement of Highway One and land use development dependent on the Highway. The County’s objective is to maintain and enhance the highway’s aesthetic beauty and to protect its primary function as a recreational route. A Project which has significant and unavoidable impacts that “result in a loss of scenic vistas, substantial reduction of visual quality and character, and loss of visual access to coastal scenic resources” is not consistent with this objective. Highway 1 along Big Sur is also a significant tourist destination throughout the Country. According to the San Francisco Chronicle, “Exactly how many tourists pass through Big Sur each year isn’t known; rough estimates range from 4.5 million to 7 million, an amount that would put Big Sur ahead of Yosemite and Grand Canyon national parks in annual visitorship.” Bixby Bridge in particular is recognized as an attraction, with Visit California stating “Welcome to Big Sur’s version of the Golden Gate—a must-see road trip spot for many and probably the most Instagrammed feature along the Highway One coastline.” Therefore projects which would impact the Big Sur Arches have the potential to adversely affect tourism, a primary economic generator in one of the most visited stretches of highway in the Country. This Project would have a significant unavoidable impact on visual resources as explained in the EIR prepared for the Project.

e) LUP Policy 4.1.2.2. This policy indicates that a principal objective of management, maintenance, and construction activities within the Highway 1 right-of-way shall be to maintain the highest possible standard of visual beauty and interest. The proposed design does not meet the highest possible standard of visual beauty and interest, as evidenced by input from the Land Use Advisory Committee Comments that the reduced opening sizes in the proposed replacement rails obscure the viewshed that

the historic design be maintained while attempting to meet current safety standards, Caltrans' EIR, which concludes that the Project would "result in a loss of scenic vistas, substantial reduction of visual quality and character, and loss of visual access to coastal scenic resources," the supporting Caltrans' Scenic Resource Evaluation and Visual Assessment (County Planning File No. LIB220307), and public comments at both the Planning Commission and Board of Supervisors hearings.

The proposed guardrail will be bulkier than the existing guardrail making views through the rail less accessible. This is due to the reduced width of the openings in the guard rail, the introduction of more posts, and the reduced height of the opening with a higher top rail and curb. The bulk and reduced openings also adversely affect the design of the railings and beauty of the bridge. Its design appears subtractive, the starting point is a wall where openings have been punched in, and detailing has been added to try and evoke the feeling of a more open graceful railing. The statement of significance for the Big Sur Arches in Caltrans document library states, "The thinness of the arch rings, columns, and railings make the structures light and transparent, lessening the visual obstruction of the seascape." Additionally, the added angles of the 86-H, while not particularly noticeable in elevation view and rendering, make the new design feel more modern than the historic rail, which is principally rectilinear with a simple rounded top.

f) LUP Policy 4.1.3.B.4 and Streets and Highways Code Section 212. This Policy requests that an overall design theme for the construction and appearance of improvements within Highway 1 be developed with design criteria for railings. A comprehensive effort was undertaken that resulted in the Big Sur Coast Highway Management Plan, which includes a Guideline for Corridor Aesthetics Element. The text of these guidelines states they do not set policy, "but rather integrate existing policies in a manner that can be interpreted to achieve the greatest compatibility." Historic Bridges Guideline 2 states that bridge rails on historic bridges be repaired or reconstructed to replicate the original rails as closely as possible. However, the California Streets and Highways Code Section 121 states that "Notwithstanding any other provision of law, a state highway that has been designated by the federal government as an All-American Road on or before April 30, 2002, shall be maintained and operated by the department consistent with the recommendations for context-sensitive design standards relative to aesthetics and safety that are contained in the corridor management plan submitted to the Federal Highway Administration." Highway 1 is a designated All American Road and The Big Sur Coast highway Management Plan Guidelines for Corridor Aesthetics is an element of its Corridor Management Plan. The contention that replacement is the only repair strategy is inconsistent with this guideline. The proposed rails do not replicate the rails as closely as possible, and the applicant refuses to deviate from their adopted design standards in any way.

g) LUP Public Access Key Policy 6.1.3. BSC LUP Public Access Key Policy 6.1.3 indicates protection of visual access should be emphasized throughout Big Sur as an appropriate response to the needs of

recreationists, and General Policy 6.1.4.4 indicates Visual access should be protected for long term public use. The proposed rails diminish visual access to the shoreline as they have smaller and fewer openings.

h) LUP Policy 6.1.4.4 This policy states that visual access should be protected for long term public use. The Project, which has substantial impacts due to loss of visual access to coastal scenic resources is not consistent with this Policy.

i) Taken together the polices of the LUP and their implementing regulations in the CIP require the highest possible degree of protection for Highway 1's aesthetic beauty. The Project proposes replacement of the bridge rails on the Garrapata Creek Bridge. The Bridge is one of seven iconic "Big Sur Arches", each of which are eligible for listing on the state and national historic registers and are contributing features to the Carmel San Simeon Highway Historic District, and are important for their role in maintaining Big Sur's iconic coastal views. The replacement rails would have narrower openings and a shorter opening arch height. The rails also have secondary support strong posts which further interrupt the viewshed. The smaller openings, thicker top and bottom rail and added strong posts would adversely impact public views, as the existing larger openings frame views outward of the dramatic coastline. These impacts to visual resources required a statement of overriding consideration as determined by Caltrans acting the lead agency on the Project. The County's Local Coastal Program requires that the Project be the least environmentally damaging alternative project. Additionally, this Project has the potential to impact future considerations on other "Big Sur Bridge Rails" as those rail replacements are identified in the programmatic EIR for the Project, and cumulative analysis of the Aesthetics impacts for those bridges should be incorporated holistically to ensure consistency with the Big Sur Coast Land Use Plan's policies.

j) Design Control. The property is subject to the County's Design Control "D" overlay zoning, which requires that the appropriate authority assure that the location, size, configuration, materials, and colors of structures assure protection of the public viewshed, neighborhood character, and visual integrity of developments (Title 20 sections 20.44.010 and 20.44.060.A.) This design approval requirement gives the decision maker broad discretionary authority in reviewing the design, which based on the evidence above does not assure protection of the public viewshed or visual integrity of Big Sur.

k) The application, Project plans, and related support materials submitted by the Project applicant to Monterey County HCD-Planning found in Project File PLN220090.

5. FINDING: **LOCAL COASTAL PROGRAM EXCEPTION CRITERIA** – The Project is inconsistent with policies and regulations in the Monterey County Local Coastal Program, and the criteria in Title 20 section 20.02.060.B allow approval of the Project in spite of these inconsistencies cannot be met.

EVIDENCE: a) Title 20 section 20.02.060.A states that no Coastal Development Permit may be approved if it is found inconsistent with the Monterey County Local Coastal Program. As detailed in Finding No. 2, 3, and 4, the

Project is inconsistent with various policies of the Monterey County Local Coastal Program.

b) However, Title 20 section 20.02.060.B allows an exception to this requirement be considered by the Board of Supervisors on appeal if it is found that the strict application of the land use policies and development standards denies all reasonable use of the subject property. Such an exception may only be approved if the following findings are met:
   - That the parcel is otherwise undevelopable due to specific policies of the applicable land use plan and development standards of this ordinance, other than for reasons of public health and safety;
   - That the grant of a Coastal Development Permit would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use designation in which the subject property is located;
   - That the parcel is not located within the critical viewshed of Big Sur as defined in Section 20.145.020 and Section 20.145.030 and in the Big Sur Land Use Plan;
   - That any development being approved is the least environmentally damaging alternative project. In order to make this finding, the development shall be required to minimize development of structures and impervious surfaces to the amount needed to reduce environmental impacts to the greatest extent possible and shall be required to locate the development on the least environmentally sensitive portion of the parcel; and
   - That any development being approved under these provisions shall be one of the "allowable uses" as listed under the parcel's zoning classification and that it shall be appealable to the California Coastal Commission in all cases.

c) Least Environmentally Damaging Alternative to the Project. As the Project is inconsistent with the Monterey County Local Coastal Program, in order to approve it the County would need to find that "any development being approved is the least environmentally damaging alternative Project. In order to make this finding, the development shall be required to minimize development of structures and impervious surfaces to the amount needed to reduce environmental impacts to the greatest extent possible and shall be required to locate the development on the least environmentally sensitive portion of the parcel." Exploration of non-standard bridge rail alternatives that maximize protection of the viewshed and this iconic historic bridge while have not been adequately explored, meaning that it would not be possible to make this finding, and therefore not possible to approve the Project.

d) Alternatives / Exceptions Background. Design Exceptions to current standards have been raised and dismissed in the course of review. This section includes discussion of this and a background on the standards governing bridge design.

The American Association of State Highway and Transportation Official ("AASHTO") is a non-profit organization who writes standards for

bridge rails and other highway safety devices. AASHTO standards have become the industry standard throughout the Country.

The Federal Highway Administration ("FHWA") is the federal agency that manages the federal highway system. Pursuant to a memorandum of understanding with AASHTO, the FHWA will only issue letters of funding eligibility under the Federal-aid re-imbursement for "Manual for Assessing Safety Hardware" ("MASH") compliant devices. MASH is a set of safety hardware crash testing standards which replaced the previous NCRHP-350 standards. MASH establishes different crash test levels. Lower test levels, such as the TL-2, are appropriate for lower speed locations, while higher test levels, such as the TL-4 are appropriate to higher speed locations. However, as stated in FHWA's March 17, 2017 memorandum, it is "the States' responsibility to determine whether or not to use a particular hardware device and how to use if for their particular location." The County has received contradictory information on whether the Project is a federal undertaking, with environmental documents prepared for the Project say it is, while the Project is not on the Federal Highway System, being undertaken by a federal agency, or receiving federal funding. Ultimately the decision on whether to propose any hardware device is up to Caltrans. Additionally, even if it were a federal undertaking the FHWA may still consider re-imbursement for non-MASH compliant devices, their March 17, 2017 letter only requires MASH compliance for letters of funding reimbursement eligibility.

Caltrans manages the state highway system including Highway 1. On December 23, 2016, Caltrans released a memo indicating that they are "adopting the AASHTO/FHWA recommendation to implement MASH for evaluating all new permanent installations and full replacements of roadside safety hardware." On November 12, 2019, Caltrans released an additional memo clarifying Caltrans MASH Compliance Plan and Policy, which indicates that if a situation arises where a MASH compliant safety device is not available to address a specific need, Caltrans must use an NCHRP Report 350 device, and if a an NCHRP device is not available to address a specific need, the engineer must consult with the District Traffic Safety Devices Coordinator and document the decision in the Project file.

Additionally, effective August 19, 2019, Caltrans released a memo outlining its adoption of the "AASHTO LRFD Bridge Design Specifications, Eighth Edition with California Amendments" ("AASHTO-CA BDS-8"). This memo states "The State Bridge Engineer shall approve any exceptions to adopting provisions in the AASHTO-CA BDS-8 as stated above. This request shall be made as early as possible." Section 13: new railings are not permitted to allow a 6 inch sphere to pass through a clear opening over a certain height. Caltrans EIR only references MASH, while these standards were first directly addressed in Caltrans appeal of the Planning Commission's denial. After denial of the Project on March 8, 2022, Caltrans submitted a Letter from the State Bridge Engineer dated March 21, 2023 indicating that they would not be able to approve an exception to the 6 inch width requirement from

AASHTO-CA BDS-8, stating "Since it is a safety requirement, a design exception cannot be granted to increase the clear openings in the bridge railing: such exception would violate state and Federal standards and jeopardize public safety." This message was reiterated in a letter from the new state bridge engineer Richard Foley dated February 13, 2024 which states that the AASHTO-LRFD-BDS provide minimum standards for highway bridge design according to the generally stated Code of Federal Regulations.

No detailed analysis is provided in either State Bridge Engineer's letter, the message that compliance with these standards is required by federal law or policy is directly contradicted by the March 17, 2017 letter from the FHWA submitted by Caltrans, and no citation is provided to the Code of Federal Regulations that requires that these standards must be adhered to.

e) Repair. During the review process, County staff asked Caltrans if the bridge rails could be rehabilitated, generally, and notwithstanding Caltrans standards. In the Caltrans' response December 6, 2022, District Chief of Maintenance and Caltrans' Structures Maintenance & Investigations (SM&I) states, "Because the bridge rail is a safety feature, it must be brought up to MASH standards. Therefore, replacement is the only repair strategy." This is not consistent with AASHTO Historic Bridge Preservation Guide, the commentary section 13.5 states, "a design exception may be required for in-kind repair of existing rail as existing historic rails typically are not crash tasted. The design exception is typically justified by some combination of lower speed, high curb, lack of significant horizontal curvature, and benign accident history." Regardless of the condition of the current rail, repair or rehabilitation cannot be ruled out on the sole basis that repair would not comply with current standards.

f) Reduced Speed. Review of this Project included consideration of reducing the speed limit to 45 miles an hour near the bridge. Reducing the speed to 45 mph or less would allow the use of a bridge rail designed for lower speeds, such as the "C411" rail, which would allow taller (but not wider) openings and more closely align with the historic appearance of the existing rails while still meeting current recommended safety standards. California Vehicle Code Section 22349(b) sets the speed limit on a two-lane undivided highway at 55 miles per hour. This may be reduced based on the results of an engineering traffic survey. However, Vehicle Code section 22358.6 limits this reduction to the nearest five mile an hour increment of the 85th percentile speed. In this case Caltrans conducted a speed study that revealed average speeds of 58 miles an hour on this stretch of Highway, so the speed has been rounded down to 55 miles per hour.

The purpose of the speed study is to establish free flowing traffic conditions. Some of the conditions that exist in free-flowing traffic are a lack of inclement water or special event traffic. In this case, the study was conducted on an overcast day. Additionally, no methods of speed reduction (advisory signage, alterations in road geometry) appear have

been pursued. Traditional traffic engineering principles would design the improvements of a roadway based on the operating speed. However, this approach is inappropriate for a scenic highway. The "Design Standards for the Big Sur Highway" revised August of 1980 adopt a basic planning goal that Highway 1 should remain a slow speed scenic highway, with the conclusion that the highway should be posted at 45-50 miles an hour. On January 28, 2022, Caltrans released a memo which provides guidance to district directors on the appropriate use of traffic calming measures. In Big Sur in particular the highway serves as both a scenic destination and the arterial for local traffic, so pursuing methods to reduce speeds would be appropriate.

g) Design Exceptions – FHWA Guidance and NCRHP Report 101. Design exceptions appear possible without any requirement for new legislation or adoption of updated regulations.

The Federal Highway Administration has a publication titled "Mitigation Strategies for Design Exceptions", which analyzes exceptions based on substantive (is the facility reasonable and safe) versus nominal (does it comply with standards) and is relevant to design exception consideration.

The available publications on historic bridge preservation and specific examples from other states reference design exceptions for historic bridge preservation. In 2020, the AASHTO released a "Historic Bridge Preservation Guide", intended for the preservation and rehabilitation of historic highway bridges and to be used in conjunction with the AASHTO LRFD Bridge Design Specifications. This guide includes explicit discussion of design exceptions.

Another AASHTO publication, the 2007 Guidelines for Historic Bridge Rehabilitation and Replacement states, among other things, "Bridges with high and exceptional historical significance should be considered for rehabilitation based on a greater level of effort (level of engineering required, cost, etc.) because of their overriding historical significance."

The tension between design standards and historic bridge preservation is not new. The National Cooperative highway Research Program ("NCRHP") Report 101, Historic Bridges – Criteria for Decision Making published in 1983 states transportation agencies have been concerned regarding maintaining bridges that don't comply with current standards for safety and liability: "The concern most frequently and strongly expressed by the transportation community, when the suggestion is made to preserve and maintain in service a bridge of historical importance, are those of safety," and "After considerations of safety, the concerns most vigorously expressed by transportation officials in response to suggestions that bridges of historical importance be maintained in service or otherwise preserved are those related to tort liability. These concerns focus primarily on the legal consequences of rehabilitating or continuing in service bridges that fail to comply with contemporary standards of safety, typically the AASHTO standards discussed in Chapter Two."

Nevertheless, as outlined in NCRHP Report 101 design exceptions were made to preserve historic bridges: "…where the FHWA Division Administrator believed the action justifiable based on the lesser cost of rehabilitation (as compared to replacement) and in consideration of a favorable assessment of structural condition, accident history, and anticipated future use of the crossing. However, because such decisions are discretionary with the Division Administrator, the unusual conditions clause is not thought to be applied uniformly among FHWA Divisions. Also, most of these decisions are made locally and are not widely publicized," and "Most of the cases that have received publicity have several factors in common: in addition to being National Register eligible, the bridges tend to be very important historically; most involve some compromise of integrity and occasionally engineering standards; and most were controversial but with strong local support."

h) Design Exceptions – Other Bridge Preservation Programs. The 2012 NCHRP Project 25-25, Task 66 "Best Practices and Lessons Learning on Preservation and Rehabilitation of Historic Bridges" surveyed several Departments of Transportation ("DOT") throughout the country regarding their historic bridge preservation programs. Some of the responses are summarized below:
   - Vermont DOT did not use AASHTO standards and stated that the state standards allow rehabilitation in historic bridges in some cases where bridge geometry doesn't meet their minimum standards.
   - Minnesota DOT used its "Bridge Preservation, Improvement, and Replacement" and "Standards and Exceptions" documents for guidance, stating "design exceptions have been key elements in successful historic bridge rehabilitations."
   - Oregon DOT stated that their team starts with bridge safety "According to Ben Tang, the Team Supervisor, 'The first issue is safety, determined by examining the accident data for the bridge.'" Additionally, their continued use of design flexibility is to "maintain proper documentation throughout the design phase. Obtain all design exceptions."
   - Virginia DOT manages historic bridges through a management plan, which includes nine considerations that need to be addressed for design exceptions to be considered, including amount and character of traffic, accident history, degree that the standard is being reduced, and the effect of the exception on safety and operation of the facility.
   - Texas DOT developed alternative minimum standards for historic bridges, however, they only apply on low traffic volume roads. (Texas DOT are also the agency that development the type C411 and type C412 historic "look a-like" rails.)
   - Indiana DOT requires consideration of condition and traffic, and allows for use of design exceptions for continued vehicular use of bridges below their minimum standards for select bridges.

i) Design Exceptions – Examples. The County was able to identify at least two specific examples where exceptions to crash test requirements were made for bridge rails on historic bridges. For the Chenoweth Creek

Bridge in Oregon, the Oregon Department of Transportation developed a non-crash-tested railing designed for TL-4 loading. This example appears to have utilized two thin cables to meet the 6 inch spherical requirement required by the AASHTO-LRFD-BDS, but is an example of a bridge with an exception to crash test standard requirements. For Bridge 6679, constructed in 1949 in Houston County, Minnesota, a design exception was utilized by Minnesota DOT to use a Test Level 3 "TL-3" bridge rail, which emulates the appearance of the modernist concrete bi-rail railings better than a TL-4 rated railing.

j) The possibility for design exceptions from either the MASH or AASHTO LRFD BDS-8 has not been properly addressed by Caltrans in this case. The EIR only considers a no-build alternative and a single build alternative (with two design variants with similar impacts) in detail. Various other documents acknowledge other exceptions, but dismiss them as they don't meet current standards. An agency preference for their standards cannot circumscribe an alternatives analysis from considering a reasonable range of alternatives or the least environmentally damaging alternative. Without substantial evidence that the proposed Project is the least damaging environmental alternative, the required findings to grant an exception to the Local Coastal Program consistency requirement (and therefore approve the Project) cannot be met.

k) The application, Project plans, and related support materials submitted by the Project applicant to Monterey County HCD-Planning found in Project File PLN220090.

6. FINDING: **CEQA (Exempt) –** Denial of the Project is statutorily exempt from environmental review.

EVIDENCE:

a) California Environmental Quality Act (CEQA) Guidelines section 15270 statutorily exempts projects which a public agency rejects or disapproves.

b) The Board of Supervisor's action to deny the Project fits within this exemption; the County is a public agency disapproving of a project.

c) Statutory exemptions from CEQA are not qualified by the exceptions applicable to categorical exemptions in CEQA Guidelines section 15300.2.

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

EVIDENCE:

a) The existing bridge rails on Garrapata Bridge are significantly deteriorated. In order to prevent incident or exacerbate public safety risk, temporary metal railings and traffic control with signalization and 1-way traffic flow over the bridge have been implemented. Temporary measures required to assure public safety may continue to be required until a permanent solution is identified.

b) Based on Caltrans' accident analysis between 1/1/2012 to 12/31/2021 sates "A review of the Traffic Collision Reports (TCRs) show two

collisions occurring on Garrapata Creek Bridge. One collision involved an unforeseeable mechanical failure of vehicle. The other collision involved person 1 allowing vehicle 1 to collide with the concrete barrier railing due to their level of intoxication resulting in a minor injury." No serious collisions or injuries have been documented since the construction of the bridge in the 1930's.

c) The most recent Caltrans Division of Maintenance report submitted dated July 22, 2021 states "There are incipient spalls and shallow spalls (less than 1 inch deep) with exposed rebar throughout both bridge rails (interior/exterior faces) which typically measure 3-6 inches wide x 6-18 inches long. This condition has not significantly changed when compared to Photos 7 and 8 from the 07/22/15 BIR. This condition is predominantly located at the balusters. The 2009 Work Recommendation to rehabilitate the rails is still valid. (Quantity = 75% of the total)" The rail condition has apparently not significantly changed since 2015, and the report references rehabilitation.

e) Denial of this Project would not prevent Caltrans from proposing a repair, replacement in kind alternative, or an alternative with a deviation from Caltrans design standards in order to address inconsistencies with the Monterey Local Coastal Program. Significant testimony has been received from the decision making bodies on projects they would be more likely support, and any repair or rehabilitation project would improve safety over existing conditions.

8. FINDING: **PUBLIC ACCESS** – As proposed the Project will not impact physical public access, but is not in conformance with all the public access and recreation policies of the applicable Local Coastal Program, particularly those policies related to maintaining visual access.

EVIDENCE:

a) No physical public access is required as part of the Project and there will be as no substantial adverse impact on physical access, either individually or cumulatively, as described in LUP or CIP.

b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property other than the recognition that Highway 1 itself is a recreational access that must be preserved.

c) As discussed in Finding No. 4 visual public access will be impacted. Visual impacts on Highway 1 in Big Sur are strictly controlled in the LUP. The LUP permits improvements to the Highway for safety reasons, and while measures have been incorporated to minimize visual impacts of the Project while meeting current safety standards, the Project is not consistent with public access policies 6.1.3 and 6.1.1.4.

d) The application, Project plans, and related support materials submitted by the Project applicant to Monterey County HCD-Planning for the proposed development found in Project File No. PLN220090.

9. FINDING: **APPEAL –** Upon consideration of the documentary evidence, the staff report, the oral and written testimony, and all other evidence in the record, the Board responds as follows to the Appellant's contentions:

EVIDENCE:

a) In accordance with Title 20, section 20.80.040.D, the Board of Supervisors is the appropriate authority to consider appeals from discretionary decisions of the Planning Commission.

b) On March 23, 2023 Caltrans filed a timely appeal of the Planning Commission's denial. As both the applicant and appellant, Caltrans agreed to extend the 60 day timeline for consideration of the appeal, and the matter was scheduled for a de novo hearing on December 6, 2023, which was continued to January 30, 2024 and to March 26, 2024. The applicant did not object to the continuance to March 26, 2024.

c) Applicant's appeal arguments begin on page 2 of a letter from Caltrans attached to the notice of appeal. Appeal contentions and responses to contentions are detailed below.

d) ""Evidence" 2.a. (Past Communications) in the Planning Commission resolution states: "Communications were received during the course of review of the Project indicating inconsistencies with the text, policies, and regulations of these documents ... " However, the nature and extent of these "communications" are not disclosed."

Response 1: The written communications are the oral testimony received at the Planning Commission hearings and written comments submitted to them. As the Board's action is de novo, this would also include the oral testimony at the Board of Supervisors hearing and written comments submitted to the Board of Supervisors.

e) Beginning on Page 2 of the Notice of Appeal, Caltrans contends that "Finding No. 2 evidence f", which states that the Project is inconsistent with Big Sur Coast Land Use Plan (LUP) Public Access Policy 6.1.3, is not accurate, in summary because the Project would continue to provide views of the vegetation and beach through clear openings in the bridge rails, and that ensuring safe physical access across the bridge would continue to enable visual access to the Big Sur coast.

Response 2: Ensuring the safety of the highway would continue to enable visual access to the Big Sur coast. However, this policy also states that the protection of visual access should be emphasized throughout Big Sur as an appropriate response to the needs of recreation. The proposed rails would result in a loss of visual access to coastal scenic resources, and a reduction of visual access on the basis of compliance with current standards. .The impacts are recognized in the EIR prepared by Caltrans.

f) On Page 3 Caltrans contends that Finding No. 2 evidence g is inaccurate; in summary because there are no views of the ocean through the rail openings. Views of the ocean are above the top of the rails and the proposed design will retain views through the clear openings of the proposed new balusters. Additionally, cumulative impacts analysis was conducted as part of Caltrans EIR prepared for the Project.

Response 3: There are views of the ocean through the railings. While motorists, pedestrians, and cyclists would retain views, the Project significantly reduces those views. This is consistent with Caltrans EIR

prepared for the Project which concluded that both the Big Sur Rail Replacement Project and the proposed Project on Garapata Creek Bridge would "result in a loss of scenic vistas, substantial reduction of visual quality and character, and loss of visual access to coastal scenic resources."

The methodology for cumulative impacts analysis on Page 45 states that because the Tier 1 program improvements would be constructed over a multi-year time frame, potential cumulative impacts, as well as other resource impacts, could change over time, and states that any Tier 2 construction projects would include considerations of cumulative impacts. The conclusion of the cumulative impacts analysis is identical to the significant and unavoidable aesthetics analysis, that the Project would result in cumulative loss of scenic vistas, substantial reduction of visual quality and character, and loss of visual access to coastal scenic resources. This both defers detailed analysis of cumulative impacts and does not address the final sentence of Finding No. 2 evidence g, that the consideration of this Project has the potential to impact future considerations on other "Big Sur Bridge Rails" projects. To date Caltrans has insisted that no deviation from their standards would be considered, whether they're from the Manual for Assessing Safety Hardware (MASH), or the dimensional constraints of the AASHTO Load and Resistance Factor Bridge Design Specifications, Eighth Edition with CA amendments. That underlying analysis has been called into question, and if it is determined acceptable for the Garapata Creek Bridge Rail replacement Project, it is difficult to see how that analysis would be able to change for future bridge rail projects.

g) On Pages 3 and 4, Caltrans contends that Finding No. 2 evidence h, that Caltrans has not demonstrated that other design options have been given adequate consideration, is inaccurate, indicating that they have given extensive and exhaustive consideration of all options raised by the County and public, including options for repair, speed reductions, bridge rail openings, and relief from typical crash test ratings standards, as well as other options during Caltrans bridge inspection processes, CEQA/NEPA review of the Project, Caltrans project programming processes, and Caltrans project design process.

Response 4: The County cannot evaluate discretionary permits based on Caltrans internal review processes, including bridge inspection processes, programming, or design. Caltrans EIR only considers a no-project alternative, and a "Build Alternative" with two variations of a high speed Test Level 4 rail that complies with current standards: the Caltrans 86-H, and the Texas Department of Transportation C412. As both of these railing designs are driven by the same design parameters, their historic and aesthetic impacts are comparable, and the EIR even identifies these together as the "Build Alternative", approving the Build Alternative without an analysis that weighs the different alternatives environmental impacts with the objectives of the EIR. In essence, Caltrans has defined the objective of the Project to be a rail compliant with current standards,

"The purpose of the Tier 1 Big Sur Bridge Rail Replacement Program and Tier 2 Garrapata Creek Bridge Rail Replacement Project is to replace the existing nonstandard concrete baluster bridge rails and approach rails with rails that meet current state and federal traffic safety standards to ensure the reliability of State Route 1," and included one alternative in their environmental analysis, being a rail that complies with current standards. Widening the bridge and a new bridge alignment was mentioned but eliminated from further discussion due to engineering constraints. Lowering the speed limit to accommodate an in-kind replacement was also mentioned, but (in addition to concluding that the speed could not be reduced), the EIR concludes an in-kind railing would not meet current standards for the proposed speed limit of 55 miles an hour. Regardless, additional information submitted by Caltrans since certification of the EIR has indicated that an in-kind rail would not meet standards regardless of speed. While not in the EIR, in the Finding of Adverse Effect included in the historic report prepared for the Project, a type C411 rail (a rail rated at a lower crash speed) was considered but rejected as, based on the current speed at Garrapata, it would not meet the current design standard, and therefore does not meet the purpose and need of the Project. Apart from the widening and new bridge alignments which were eliminated due to engineering constraints, evaluation of meaningful alternatives is circumvented by defining the Project as "replacement meeting current standards." The County is unable to conclude that non-standard bridge rail alternatives that maximize protection of the viewshed and historic character, while protecting health and safety, have been thoroughly explored.

h) On Page 4, Caltrans contends that Finding No. 2 evidence i regarding repairing historic bridge rails is not accurate, "In "Evidence" 2.i., it is insinuated that there still may be some option to repair the rail if speed/traffic is altered or under some other unstated circumstance. In Caltrans' letter submitted to the County on December 6, 2022 (see Exhibit F of the Planning Commission's February 22, 2023, staff report on the Project), it is clearly stated by District 5 Maintenance and Caltrans' Headquarters Structures Maintenance & Investigations (SM&I) that "replacement of the railing is the only repair strategy." This information is stated in the EIR for the Project, application materials, and a letter submitted in on August 15, 2022 as well."

   Response 5: The evidence relied upon in this contention is a statement founded in the Caltrans position that compliance with current standards is required. Repair in kind is not impossible, it simply conflicts with the mission to meet current standards. This topic is addressed in detail in this resolution.

i) On Pages 4 and 5 Caltrans contends that Finding No. 2 evidence j, that speed reduction or other traffic calming devices were not given adequate consideration, is not accurate and speculative. This contention states that test level evaluation in the Manual for Assessing Safety Hardware (MASH) is set by operating speed, not the speed limit/posted speed. The appeal contention also indicates that it is speculative or inconclusive as

to whether the Texas C411 rail type would have reduced impacts when compared to the proposed 86-H bridge rails.

Response 6: The current regulations limiting reduction in the speed limit or the corresponding standard test rated rails is not refuted, however, variability of speeds at different times and days of the week, combined with advisory speed limits, and consideration of design exceptions are offered as factors that could be considered to achieve a bridge rail design that is appropriate in the unique circumstances of this case. Both the County's Historic Resources Review Board (HRRB), in its Section 106 consultation letter, and Caltrans' Finding of Adverse Effect (FAE) discuss that the C411 more closely emulates the historic design of the existing rails. The appeal contention does correctly identify that this specific rail opening could be taller but not wider. The denial findings have been revised accordingly.

j) On pages 5 through 7 Caltrans contend that Finding No. 2 evidence k is inaccurate and misleading for multiple reasons. Summaries of Caltrans' contentions and responses are below and in evidences k through m.

k) This evidence states "In the EIR the identified purpose of the narrower opening is to prevent catch points, which can hook cars bumpers and increase the severity of accidents. The health and safety need for the features creating additional obstruction to the viewshed should be clarified and confirmed." The appeal goes on to say that the "health and safety need for the design specifications of the proposed bridge railing have been clearly and repeatedly stated…" then details the various design standards used in the development of the rail, which include the AASHTO Load and Resistance Factor Design (LRFD) Bridge Design Specifications, Eighth Edition with California Amendments (AASHTO-CA BDS-8), Caltrans Traffic Safety Systems Guidance, and the Manual for Assessing Safety Hardware (MASH) and discusses their applicability to the Project.

Response 7: Regarding the first sentence in evidence k, that identified purpose is summarized directly from Page 12 of Caltrans EIR, which states "Since the open windows in baluster-style rails can be 'catch points,' where vehicles' bumpers can potentially catch on the rails, which could cause or worsen accidents, current safety standards require a higher base height, thickness, and top rail thickness to accommodate modern vehicle designs and speeds. The increased height of the base of the rails and at the base of the window openings provides the rail with the ability to withstand and deflect vehicles impacts." So saying it is inaccurate and misleading contradicts Caltrans certified EIR prepared for the Project.

l) The beginning of Page 6 of the Appellant's contention regarding Finding No. 2 evidence k states that the Bridge must be designed in accordance with the Implementation of the Manual for Assessing Safety Hardware dated December 23, 2016, and the Interim Type Selection Guidelines for Bridge Railings in California dated August 2, 2019.

Response 8: Caltrans' November 12, 2019, MASH Compliance Plan and Policy memo states that a MASH compliant device is not available to address a specific need, to use a National Cooperative Highway Research Program ("NCHRP") Report 350 approved device, and when neither are available, to use engineering judgment to address the specific need. Another August 19, 2019, Caltrans' memo regarding the adoption of "AASHTO LRFD BDS-8" states that the State Bridge Engineer shall approve any exceptions to those standards, and such a request shall be made as early as possible. These documents appear to contemplate design exceptions.

m) Page 6 of the Appellant's contention regarding Finding No. 2 evidence k concludes by stating that failure to follow MASH Guidelines and Caltrans bridge rail design guidelines implies that death and serious injury are acceptable, that there is no exception to MASH implementation policies, and that a Test level-4 bridge rail is acceptable and appropriate for Garrapata Creek.

Response 9:
This justification focuses only on nominal safety (does it comply with standards) versus substantive safety (is the facility reasonable and safe). Just because an element does not meet nominal safety standards, does not mean that it is substantively unsafe. There is not always a unilateral connection between standards and safety. Historic preservation exceptions in the uniform building code recognize the tension between historic preservation and safety and provide for reasonable exceptions and variations from current standards without significantly compromising health and safety. The County is supportive of bridge rail design that appropriately balances public health and safety with protection of views and historic resources.

The second sentence of evidence k that the health and safety need for features creating additional obstruction in the viewshed should be clarified and confirmed remains accurate. The response to the appeal was the first mention of the AASHTO Load and Resistance Factor Design (LRFD) Bridge Design Specifications, Eighth Edition with California Amendments (AASHTO-CA BDS-8), and the fact that the six-inch spherical opening comes from section 13.8.1 and 13.9.1 is significant new information that was not previously provided. In regard to this 6 inch spherical opening requirement, this is not from MASH and it seems possible to modify the design to create larger openings without an interrupting metal element while designing a bridge rail that is reasonable and safe. The requirement for a six-inch opening is to prevent pedestrians and bicyclists from going through the rail in the event of a crash; however, the bridge is narrow with no shoulder for bicyclists or pedestrians, and the bridge length is exceptionally short. The submitted accident data from Caltrans indicates that there have been only two crashes on Garrapata Creek Bridge between 1/1/2012 and 12/31/2021, one of which resulted in a minor injury and the other only property damage. Other bridges along this corridor are not combination vehicle and bicycle/pedestrian bridges, including ones that are not proposed for

rail replacements, so why this bridge must be a combination rail is not clear.

m) On Page 7 Caltrans contends that Finding No. 2 evidence l is not accurate, citing their response to evidence k, and further stating that "the potential for an exception to these rules should be taken to the highest approval body" is not true and misleading, stating that "the potential for an exception has already been considered by the Caltrans personal with the responsibility and authority to do so, which has been stated repeatedly."

Response 10: Caltrans August 15, 2022 submittal package states "The Caltrans District 5 Traffic Safety Engineer has made the determination that he will not be recommending an exception to the MASH standard for the new bridge railing for the Garrapata Creek Bridge." Simply stating that an exception will not be considered lacks the clarity and justification for the conclusion. To clarify the possibility for a design exception should be taken to the highest approval body, who should provide substantial evidence to justify why it could or could not be approved, so that a reasonable range of alternatives can be considered and evidence is available to justify why the Project is the least damaging environmental alternative (unless it's in full conformity to the County's Local Coastal Program).

The contention goes on to state that the State Bridge Engineer is responsible for approving any exception to adopting provisions in the AASHTO-CA BDS-8, and provides a letter from the State Bridge Engineer dated March 21, 2023 stating that they would not be able to grant an exception to AASHTO-CA BDS-8, and that no design exception process exists to grant a waiver for a bridge rail to not comply with MASH criteria. This statement is internally inconsistent, indicating first that the State Bridge Engineer can make exceptions and then concluding that exceptions are not possible.

The entirety of the letter is a single page, provides no citation on what statute requires the AASHTO-CA BDS-8 except briefly mentioning the Code of Federal Regulations and stating that such an exception would violate state and Federal standards, despite this not being a federal Project. Regarding exceptions to MASH, on November 12, 2019 Caltrans released a memo clarifying Caltrans MASH Compliance Plan and Policy, which indicates that if a situation arises where a MASH compliant safety device is not available to address a specific need, Caltrans must use an NCHRP Report 350 device, and if a an NCHRP device isn't available to address a specific need, the engineer must consult with the District Traffic Safety Devices Coordinator and document the decision in the Project file.

The supplemental package submitted February 23, 2024 further contradicts this, stating that there simply is no process for consideration of design exceptions for bridge rails. The revised March 6, 2024 cover

letter for this packet then goes on to say that there is, but that the State Bridge Engineer would not approve such an exception.

l) On Pages 8 and 9 Caltrans contend that Finding No. 3, that "denial of the Project will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and the improvements in the neighborhood or to the general welfare of the County" is inaccurate and not true and not supported by the evidence.

Response 11: Temporary metal rails have already been installed on the bridge which temporarily ameliorates the risks associated with the deteriorated rails until a replacement Project is approved.

m) On Page 9 and 10 Caltrans contends that the denial of the Project conflicts with State Law. The first section of this contention repeats the legislative authority of Caltrans over the highway system.

Response 12: This section is not relevant to the appeal as Caltrans possession over the highway system is not in contention and does not alleviate them from requiring Coastal Development Permits, which must be reviewed in accordance with Monterey County's adopted Local Coastal Program. Caltrans is required to secure coastal development permits and comply with the Local Coastal Program.

The second section states that "Public comment has insinuated that Caltrans is able to "replicate" the existing bridge railing design if a design exception can be made by Caltrans and/or if the speed limit could be reduced on State Route 1 to 45 mph or less. In fact, under all circumstances, Caltrans is unable to replicate the existing rail. This statement has been made repeatedly and in numerous documents including the CEQA document for the Project and in documentation under Caltrans Section 106 consultation with the SHPO." Caltrans certified EIR for the Project identifies a speed limit reduction and replacement in kind as one of the alternatives considered but eliminated from detailed analysis specifically because replacing the railing in-kind would not meet current traffic safety standards for the posted speed limit of 55 miles an hour. That a replacement in kind would not be allowed notwithstanding the posted speed is not what is reflected in the CEQA document. Additionally, this does not relate to why the project would be inconsistent with state law.

The contention goes on to describe that the current standards were developed at the national level by the Federal Highway Administration (FHWA) and by the American Association of Highway and Transportation Officials (AASHTO) and adopted by the State of California. AASHTO are a non-governmental organization, and the submitted FHWA memo states that it is up to the State's to select particular safety hardware devices, so this doesn't establish why denial of the Project is inconsistent with State Law.

The contention goes on to describe that the 6 inch opening requirement is to minimize catch points, which aligns with the EIR but contradicts the appeal contention in evidence "j", then states that the 6 inch openings are also established to minimize the potential for bodies and/or body parts move through the openings during an accident, potentially resulting in injury or death. The County's response regarding the 6 inch spherical opening requirement is detailed in evidence "j". The design justification for the higher base is also mentioned. Neither of these contentions relate to why the denial of the Project would be inconsistent with State Law.

Caltrans goes on to reiterate that the railing is damaged beyond repair, not crash-worthy at any speed, and needs to be replaced now. None of these relate to why the denial of the Project would be inconsistent with State Law.

The final contention is that denial of the Project would hinder Caltrans' ability to ensure public safety resulting in delay of implementation of the Project and exacerbating risk to public safety. The condition of the rails is existing, and temporary safety measures are in place on the bridge. A Project delay resulting from a Project denial is not grounds for why a Project is inconsistent with State Law. Regardless, these railings were already deteriorated in 2009, with Caltrans maintenance staff urging their replacement in 2011. Many of the County's concerns related to the Project were communicated well in advance in our Section 106 response provided in 2020. The Coastal Development Permit was not formally submitted to the County until 2022. Appealing based on timeliness while this issue was unaddressed for over a decade by the agency with possession of the highway and responsibility to keep it maintained is inappropriate.

n) Pages 10 and 11 indicate that denial of the Project is in conflict with Monterey County's Public Access Policies as "Denial of the Project by the County would directly increase the chances that Caltrans must close or restrict the use of State Route 1 in the Garrapata Creek Bridge area, which could also adversely affect public access to other areas on the Big Sur coastal along State Route 1."

Response 13: The County is reviewing Caltrans proposed Coastal Development Permit, and its environmental document as a Responsible Agency. No detail is provided on closure or restriction of the use of State Route 1 in Garrapata Creek Bridge, though any activity which would constitute "development" in the Coastal Zone require a Coastal Development Permit, unless exempt. Potential unidentified road closures are speculative and not part of the Project the County is reviewing, and therefore not relevant to the appeal.

o) Page 11 states that denial of the Project is in conflict with the Big Sur Coast Land Use Plan's Public Safety Policies, specifically citing Policy 4.1.2.1., Recommendation 4.2.4, and Policy 6.1.4.6.

Response 14: To approve the Project the County must find the Project consistent with Local Coastal Program. The provision of an exception to

the County's Local Coastal Program is only allowable in specific circumstances detailed in Title 20 section 20.02.060.B., which do not apply to this Project, as among other findings it would require finding that the development being approved is the least environmentally damaging alternative Project.

10. FINDING: **APPEALABILITY & REAPPLICATION –** The decision on this Project may be appealed to the California Coastal Commission, and reapplication for a Coastal Development Permit that substantially addresses the findings of denial may be allowed without waiting for a one year period.

EVIDENCE:

a) Pursuant to Title 20 Section 20.86.080, the Project is subject to appeal to the Coastal Commission because it involves development that is a major public works Project pursuant to Title 20 section 20.86.080.A.4.

b) Title 20 section 20.70.090 states that when a Coastal Development Permit is denied by the appropriate authority or on appeal that no new application for a Coastal Development Permit substantially the same as the one denied be considered for one year following such denial. However, should Caltrans re-apply with a Project fully consistent with the Local Coastal Program and addressing the denial findings herein, it would be a substantially different application and would not be subject to this provision.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Monterey County Board of Supervisors does hereby:

1) Find that denial of the Project qualifies for a statutory exemption from CEQA per CEQA Guidelines section 15270;
2) Deny Caltrans' appeal of the Planning Commission's decision to deny the Garrapata Creek Bridge Rail Replacement Project (PLN220090): and
3) Deny a Combined Development Permit consisting of:
    a. A Coastal Development Permit and Design Approval to allow the replacement of the bridge rails on the historic Garrapata Creek Bridge;
    b. A Coastal Development Permit to allow development within the Critical Viewshed;
    c. A Coastal Development Permit to allow development within 750 feet of known archaeological resources; and
    d. A Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat areas.

PASSED AND ADOPTED this 26th day of March, 2024, upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Valerie Ralph, Clerk of the Board of Supervisors

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

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

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

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