

Recording Requested By and
When Recorded Return to:

State Coastal Conservancy
1515 Clay Street, 10F
Oakland, CA 94612

Attn: Legal Counsel: AR

EXEMPT FROM RECORDING FEES -- GOV. CODE SECTION 6103

**IRREVOCABLE OFFER TO DEDICATE TITLE IN FEE
AND DECLARATION OF RESTRICTIVE COVENANTS**

Tunitas Creek Beach Property, San Mateo County, California

This IRREVOCABLE OFFER TO DEDICATE TITLE IN FEE AND DECLARATION OF RESTRICTIVE COVENANTS (“the **offer**”) is made this _____ day of _____, 2020, by San Mateo County (“the **offeror**”).

Pertinent Facts

- A. The offeror is the legal owner of the fee interest in real property (“the **real property**”) in the County of San Mateo, State of California (described in Exhibit A, which is incorporated by reference and attached), which property has been conveyed to the offeror under the grant deed recorded concurrently with this offer.
- B. The offeror is a county in the State of California.
- C. The State Coastal Conservancy (“the **Conservancy**”) is an agency of the State of California that has authority under Division 21 of the California Public Resources Code to award grants to public agencies and nonprofit organizations for the acquisition of real property.
- D. On March 14, 2019, the Conservancy authorized a grant to the offeror based upon a staff recommendation of the same date (“the **March 14, 2019 staff report**”), which is attached as Exhibit B, and incorporated by reference. The Conservancy subsequently entered into unrecorded Grant Agreement No. 18-132 (“the **grant**”).

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agreement") between the offeror and the Conservancy pursuant to which the Conservancy provided funds made available by the Budget Act of 2018, Statutes of 2018, Chapter 29, which appropriated general funds to the Conservancy for grants to offeror and its local partners for the Tunitas Creek Beach County Park (the "**state funds**").

- E. The grant agreement requires that the offeror permanently dedicate the real property for specified purposes defined below.
- F. The offeror is executing this offer to comply with the grant agreement, and to protect the public's interest in the real property, which was acquired with the assistance of public funds.
- G. The offeror intends through this offer to bind itself and its assigns and successors in interest.

The offeror hereby irrevocably offers to dedicate fee title to the real property to the State of California, acting through the Conservancy, and agrees to the restrictive covenants, as follows, in light of the pertinent facts, above, and in consideration of the Conservancy's grant to the offeror for the acquisition of the real property and the preservation of the public's interest in the real property.

1. **ACCEPTANCE OF OFFER.** This offer may be accepted only if the Conservancy finds that (1) the existence of the offeror has terminated or termination is imminent; or (2) that the offeror or its successor in interest in the real property has violated, with respect to the real property or any portion of it or interest in it, one or more of the following restrictive covenants and terms of this offer or the grant agreement, and has not resolved said violation after a reasonable cure period determined by the Conservancy, to the Conservancy's reasonable satisfaction:
 - a. The offeror has acquired the real property for the purposes of open space preservation, public access to the coast, and natural resource protection, as further described in the March 14, 2019 staff report (the "**acquisition purposes**"); and no use of the real property inconsistent with these acquisition purposes is permitted. As described in the March 14, 2019 staff report, uses of the real property that the Conservancy considers to be consistent with the acquisition purposes may include use of the real property as a water source to support allowable uses of the property and for a ranger station to provide 24-hour presence of offeror's staff.

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- b. The offeror shall use, manage, operate and maintain the real property as provided in Grant Agreement No. 18-132 between the offeror and the Conservancy, and as consistent with the acquisition purposes.
- c. The real property may not be used as security for any debt, in violation of section 2(a), below.
- d. The real property may not be transferred without the written approval of the Executive Officer of the Conservancy or its successor in violation of section 2(b), below.
- e. The real property may not be used for mitigation in violation of section 2(c), below.

In addition, the Conservancy may accept this offer where the property is under threat of condemnation or has been condemned, subject to section 3, below.

Upon a finding by the Conservancy, following written notice and a reasonable opportunity to cure, that any of the terms provided above has been violated; or that the existence of the offeror has terminated for any reason prior to a transfer of the real property in compliance with this offer; or that the property is under threat of condemnation or has been condemned, the Conservancy, or another public agency or a nonprofit organization designated by the Conservancy and which has agreed to accept the obligations of the offeror under this offer, may accept this offer in accordance with law, by recording in the Official Records of San Mateo County a Certificate of Acceptance substantially in the form of the attached Exhibit C.

- 2. **DECLARATION OF RESTRICTIONS**. The offeror declares that the real property shall be held, used, and conveyed subject to the following restrictions:
 - a. **Use of the real property as security for debt.** The offeror shall not use the real property as security for any debt without the written approval of the Executive Officer of the Conservancy.
 - b. **Transfer of the real property.** Transfer of the real property is subject to the prior written approval of the Executive Officer of the Conservancy. The transferee shall be subject to all provisions of this offer, including, without limitation, the use restrictions. If the Conservancy deems necessary, prior to the Conservancy's approval of any transfer of the real property, the transferee and

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the Conservancy shall enter into a new agreement sufficient to protect the interest of the people of California.

- c. **Mitigation.** The real property shall not be used for mitigation (in other words, to compensate for adverse changes to the environment elsewhere) without the written permission of the Executive Officer. In providing permission, the Executive Officer may require that all funds generated in connection with any authorized or allowable mitigation on the real property be remitted promptly to the Conservancy. For purposes of this section 2(c), mitigation includes, but is not limited to, any use of the property in connection with the sale, trade, transfer or other transaction involving carbon sequestration credit or carbon mitigation.
3. **CONDEMNATION.** Condemnation means a permanent taking through the exercise of any government power (by legal proceedings or otherwise) by any party having the right of eminent domain (“**condemnor**”); or through a voluntary sale or transfer by the offeror to any condemnor, either under threat of exercise of eminent domain by a condemnor or while legal proceedings for eminent domain are pending. If the real property is under threat of condemnation or has been condemned, the offeror shall promptly notify the Conservancy in writing, and shall use its best efforts to obtain the maximum compensation possible. Upon receiving condemnation proceeds, the offeror shall promptly pay to the Conservancy a percentage of the condemnation proceeds equivalent to the percentage of the total acquisition cost originally contributed by the Conservancy.

If the Conservancy or its designee (an “**accepting party**”) accepts the offer due to threat of condemnation and receives proceeds following condemnation, the accepting party shall distribute a proportionate share to the offeror. If an accepting party accepts the OTD due to threat of condemnation, and condemnation does not occur, then the accepting party shall either reconvey the real property to the offeror or pay to the offeror the amount of the offeror’s contribution to the original acquisition, unless the accepting party and the offeror agree otherwise.

4. **MONITORING AND INSPECTION OF THE PROPERTY.** The offeror shall regularly monitor the real property for compliance with the acquisition purposes, consistent with the Conservancy’s Monitoring and Reporting Program (as it may be revised from time to time). The offeror shall submit a periodic monitoring report to the Conservancy as required by the Monitoring and reporting Program. Upon conveyance of the real property, or any portion of or interest in it, the offeror shall provide a copy of the Monitoring and Reporting Program to the transferee.

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On reasonable prior notice to the offeror, the Conservancy shall have the right to inspect the real property during normal business hours to ascertain compliance with this offer.

5. **OTHER REMEDIES**. Notwithstanding any other provision of this offer, the Conservancy may use any remedy available in law or equity to enforce the covenants and restrictions contained in this offer.
6. **BENEFIT AND BURDEN**. This offer shall run with and burden the real property. All obligations, terms, conditions, and restrictions imposed by this offer shall be deemed covenants and restrictions running with the land, shall be effective limitations on the use of the real property from the date of recordation of this document, and shall bind the offeror and all its successors and assigns. This offer shall benefit the State of California.
7. **SUCCESSORS AND ASSIGNS**. The provisions of this offer shall bind and inure to the benefit of the successors and assigns of both the offeror and the Conservancy, whether voluntary or involuntary.
8. **CONSTRUCTION OF VALIDITY**. If a court in a final determination holds any provision of these restrictions invalid, or if, for any other reason it becomes unenforceable, no other provision shall be affected.
9. **TERM**. This offer is irrevocable, and upon recordation of an acceptance in the form of Exhibit C, this offer shall have the effect of a grant of the real property to the State of California or other accepting entity designated by the Conservancy and having executed a substantially similar acceptance, as provided in this offer.
10. **AMENDMENT**. No change in this offer shall be valid unless made in writing, signed by the offeror and the Conservancy, and recorded in the official records of San Mateo County, California.

[signature page follows]

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The offeror executes this document on the date first written above.

_____, the offeror

Authorized signature

Type or print name

Title

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EXHIBIT C

SAMPLE ONLY. NOT FOR SIGNATURE OR RECORDATION

Recording Requested By and
When Recorded Return to:

State Coastal Conservancy
1515 Clay Street 10F
Oakland, CA 94612

Attn: Legal Counsel: JMP
Project: Tunitas Creek Beach (17-01-01)

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CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property offered to the State of California, acting by and through the State Coastal Conservancy, in the IRREVOCABLE OFFER TO DEDICATE TITLE IN FEE AND DECLARATION OF RESTRICTIVE COVENANTS (“the offer”) executed by the _____ on _____, and recorded on _____ as Instrument No. _____ in the Official Records of the County of _____, State of California, is hereby accepted by the undersigned officer on behalf of the State of California, pursuant to the authorization of the State Coastal Conservancy, Resources Agency, State of California, adopted on _____ on the basis of findings made in accordance with paragraph 1 of the offer.

STATE OF CALIFORNIA
Resources Agency
State Coastal Conservancy

By: XXXXXX
Executive Officer

Date