

Appendix 1

Draft Mitigated Negative Declaration



Monterey-Salinas Transit

19 Upper Ragsdale, Suite 200, Monterey, CA 93940

DRAFT MITIGATED NEGATIVE DECLARATION

Project Title: SURF! Busway and Bus Rapid Transit Project

Project Location: The project would consist of approximately 6 linear miles of roadway surface dedicated for express busway service (bus rapid transit). The route for the SURF! busway project would begin at Monterey-Salinas Transit (MST)'s Marina Transit Exchange at Reservation Road and De Forest Road (northern terminus), and end at Contra Costa Street in Sand City (southern terminus).

The alignment of the busway would be primarily within the Transportation Agency for Monterey County's (TAMC's) Monterey Branch Line rail corridor, generally located west of Highway 1 between Beach Range Road and the Monterey Peninsula Recreation Trail. Public roadways would be used for the SURF! line at both ends of the route. Given the length of the facility and its alignment, the project would be located in the cities of Marina, Seaside, and Sand City, running parallel to Highway 1 next to Fort Ord Dunes State Park.

Assessor's Parcel No. Portions of V69-1 (former Southern Pacific Railroad Monterey Branch Line owned by TAMC); 031-221-005 (MST 5th Street Station Parcel); 031-221-001 (5th Street underpass/busway extension road)

Applicant: Monterey-Salinas Transit District
19 Upper Ragsdale, Suite 200, Monterey, CA 93940

Initial Study:

An Initial Study was prepared for the purpose of determining whether this project may have a significant effect on the environment. A copy of this study and all supporting documentation is on file at the MST office, 19 Upper Ragsdale, Suite 200, Monterey, CA 93940.

Determination: MST has determined that, based on the results of the Initial Study, that all potential environmental effects resulting from the project are either less than significant, or can be avoided or mitigated to a less than significant level. As such, adoption of a Mitigated Negative Declaration is appropriate and an Environmental Impact Report is not required.

Findings and Reasons:

The Initial Study identified potentially significant effects on the environment. However, this project has been mitigated (see mitigation measures below which avoid or mitigate the effects) to a point where no significant effects will occur. There is no substantial evidence that the project may have a residual significant effect on the environment. The following reasons support these findings:

1. The proposal is a logical component of the existing land use and circulation pattern of this area.
2. Identified adverse impacts would be effectively mitigated by construction best practices, pre-construction surveys, responsible agency permit conditions and standard conditions of approval as identified in the Initial Study.
3. The proposed project is consistent with the adopted goals, policies land uses and zoning regulations of the General Plans for County of Monterey and the cities of Marina, Seaside, Sand City, and each respective jurisdiction's Municipal Code. In addition, the proposed project is consistent with the Local Coastal programs for the cities of Marina, Seaside, Sand City.
4. With the application of the following mitigation measures, the proposed project will not have any residual significant impacts on the environment:

MITIGATION MEASURES

Aesthetics

MM AES-3.1 Limit New Sources of Lighting

The final construction drawing package shall include a final Lighting Plan indicating the type and location of proposed lighting sources. Construction lighting shall be directed away from sensitive habitat areas if required during evening hours. The Lighting Plan shall include specific products and photometric data demonstrating how new lighting sources necessary for project operational safety shall be shielded or baffled to minimize unwanted light spill and direct light away from the State Park. As the alignment is located within airport Safety Zone 7 of both the Marina Municipal and Monterey Regional airports, the project's Lighting Plan shall also be submitted to the respective airport manager for of each airport for review and approval consistent with ALUC standard conditions.

Biological Resources

MM BIO-1.1 Construction Best Management Practices

The following best management practices will be implemented during construction (i.e., pre-, during, and post-construction) to reduce impacts to special-status plant and wildlife species:

- A qualified biologist will conduct an Employee Education Program for the construction crew prior to any construction activities. The qualified biologist will meet with the construction crew at the onset of construction at the project site to educate the construction crew on the following: 1) the appropriate access route(s) in and out of the construction area and review project boundaries; 2) how a biological monitor will examine the area and agree upon a method which will ensure the safety of the monitor during such activities, 3) the special-status species and sensitive habitats that are known or may be present; 4) the specific mitigation measures that will be incorporated into the construction effort; 5) the general provisions and protections afforded by USFWS and CDFW; and 6) the proper procedures if a special-status species is encountered within the project site.
- Trees and vegetation not planned for removal or trimming will be protected prior to and during construction to the maximum possible through the use of exclusionary fencing, such as hay bales for herbaceous and shrubby vegetation, and protective wood barriers for trees. Only certified weed-free straw will be used to avoid the introduction of non-native, invasive species. A biological monitor will supervise the installation of protective fencing and monitor at least once per week until construction is complete to ensure that the protective fencing remains intact.
- Following construction, disturbed areas will be restored to pre-project contours to the maximum extent possible and revegetated using locally-occurring native

species and native erosion control seed mix, per the recommendations of a qualified biologist.

- Grading, excavating, and other activities that involve substantial soil disturbance will be planned and implemented in consultation with a qualified hydrologist, engineer, or erosion control specialist, and will utilize standard erosion control techniques to minimize erosion and sedimentation to native vegetation (pre-, during, and post-construction).
- No firearms will be allowed on the project site at any time.
- All food-related and other trash will be disposed of in closed containers and removed from the project area at least once a week during the construction period, or more often if trash is attracting avian or mammalian predators. Construction personnel will not feed or otherwise attract wildlife to the area.

MM BIO-1.2 Construction-Phase Monitoring

The applicant will retain a qualified biologist to monitor all ground disturbing construction activities (i.e., vegetation removal, grading, excavation, or similar activities) of the project to protect any special-status species encountered. Any handling and relocation protocols of special-status wildlife species will be determined in coordination with CDFW prior to any ground disturbing activities, and will be conducted by a qualified biologist with appropriate scientific collection permit. After ground disturbing project activities are complete, the qualified biologist will train an individual from the construction crew to act as the on-site construction biological monitor. The construction biological monitor will be the contact for any special-status wildlife species encounters, will conduct daily inspections of equipment and materials stored on site and any holes or trenches prior to the commencement of work, and will ensure that all installed fencing stays in place throughout the construction period. The qualified biologist will then conduct regular scheduled and unscheduled visits to ensure the construction biological monitor is satisfactorily implementing all appropriate mitigation protocols. Both the qualified biologist and the construction biological monitor must work through the State Inspector to cease construction contractor work and/or redirect project activities to ensure protection of resources and compliance with all environmental permits and conditions of the project. The qualified biologist and the construction biological monitor shall complete a daily log summarizing activities and environmental compliance throughout the duration of the project. The log will also include any special-status wildlife species observed and relocated.

MM BIO-1.3 Non-Native, Invasive Species Controls

The following measures will be implemented to reduce the introduction and spread of non-native, invasive species:

- Any landscaping or replanting required for the project will not use species listed as noxious by the California Department of Food and Agriculture (CDFA) or invasive by the California Invasive Plant Council (Cal-IPC).

- Bare and disturbed soil will be landscaped with CDFA recommended seed mix or plantings from locally adopted species to preclude the invasion on noxious weeds in the project site.
- Construction equipment will be cleaned of mud or other debris that may contain invasive plants and/or seeds and inspected to reduce the potential of spreading noxious weeds, before mobilizing to arrive at the construction site and before leaving the construction site.
- All non-native, invasive plant species will be removed from disturbed areas prior to replanting.

MM BIO-1.4 Pre-Construction Surveys for Protected Avian Species

Construction activities that may directly (e.g., vegetation removal) or indirectly (e.g., noise/ground disturbance) affect protected nesting avian species will be timed to avoid the breeding and nesting season. Specifically, vegetation and/or tree removal can be scheduled after September 16 and before January 31. Alternatively, a qualified biologist will be retained by the project applicant to conduct pre-construction surveys for nesting raptors and other protected avian species within 500 feet of proposed construction activities if construction occurs between February 1 and September 15. Pre-construction surveys will be conducted no more than 14 days prior to the start of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). Because some bird species nest early in spring and others nest later in summer, surveys for nesting birds may be required to continue during construction to address new arrivals, and because some species breed multiple times in a season. The necessity and timing of these continued surveys will be determined by the qualified biologist based on review of the final construction plans and in coordination with the CDFW, as needed.

If raptors or other protected avian species nests are identified during the pre-construction surveys, the qualified biologist will notify the project applicant and an appropriate no-disturbance buffer will be imposed within which no construction activities or disturbance should take place (generally 500 feet in all directions for raptors; other avian species may have species-specific requirements) until the young of the year have fledged and are no longer reliant upon the nest or parental care for survival, as determined by a qualified biologist.

MM BIO-1.5 Pre-Construction Surveys for Monterey Dusky-Footed Woodrat

Not more than thirty (30) days prior to the start of construction of Segments 1-4 and the 5th Street Station (including vegetation removal), a qualified biologist shall conduct a survey of suitable habitat within the work site to locate existing Monterey dusky-footed woodrat nests. All Monterey dusky-footed woodrat nests shall be mapped and flagged for avoidance. Graphics depicting all Monterey dusky-footed woodrat nests shall be provided to the construction contractor. Any Monterey dusky-footed woodrat nests that cannot be avoided shall be relocated according to the following procedures:

- Each active nest shall be disturbed by the qualified biologist to the degree that the woodrats leave the nest and seek refuge elsewhere.
- Nests shall be dismantled during the non-breeding season (between October 1 and December 31), if possible.
- If a litter of young is found or suspected, nest material shall be replaced and the nest left alone for 2-3 weeks, after this time the nest will be rechecked to verify that young are capable of independent survival before proceeding with nest dismantling.

MM BIO-1.6 Pre-Construction Surveys for Townsend’s Big-eared Bat

To avoid and reduce impacts to Townsend’s big-eared bat, if the project construction is planned during the reproductive season (May 1 through September 15) MST will retain a qualified bat specialist or wildlife biologist to conduct site surveys to characterize bat utilization within and adjacent to the project site and potential species present (techniques utilized to be determined by the biologist) prior to construction. Based on the results of these initial surveys, one or more of the following will occur:

- If it is determined that bats are not present within or adjacent to the site, no additional mitigation is required.
- If it is determined that bats are utilizing the trees or abandoned buildings within or adjacent to the site and may be impacted by the proposed project, pre-construction surveys will be conducted within 50 feet of construction limits no more than 30 days prior to the start of construction. If, according to the bat specialist, no bats or bat signs are observed in the course of the pre-construction surveys, construction may proceed. If bats and/or bat signs are observed during the pre-construction surveys, the biologist will determine if disturbance will jeopardize the roost (i.e., maternity, foraging, day, or night).

MM BIO-1.7 SBB Avoidance and Restoration

The host plant species for SBB (i.e. seacliff and dune buckwheat) shall be avoided to the greatest extent feasible. SBB habitat not scheduled for removal shall be protected prior to and during construction to the maximum possible extent through the use of exclusionary fencing or flagging, such as construction fencing or hay bales. Only certified weed-free straw will be used to avoid the introduction of non-native, invasive species. An experienced biological monitor, trained by a qualified biologist will supervise the installation of protective fencing and monitor at least once per week until construction is complete to ensure that the protective fencing remains intact.

If avoidance is not feasible:

- The duff and/or associated soil and plant material underneath the presumed-occupied seacliff or dune buckwheat plants that will be impacted by the project will be removed by hand by a USFWS-approved biologist prior to disturbance, and will be placed as close as possible to, but not on, living seacliff or dune

buckwheat plants not scheduled for removal, within the boundaries of exclusionary fencing/flagging.

- The number of plants removed will be quantified and shall be replaced at a 1:1 success ratio for the acreage or individuals impacted. A Restoration Plan shall be prepared by a qualified biologist and implemented. The plan shall include, but is not limited to, the following:
 - A description of the baseline conditions of the habitats within the work site, including the presence of any special-status species, their locations, and densities;
 - Procedures to control and/or eliminate non-native invasive species within the work site;
 - A detailed description of on-site and/or off-site restoration areas, salvage of seed and/or soil bank, plant salvage, seeding and planting specifications, which may include, but is not limited to, an increased planting ratio to ensure the 1:1 success ratio, if required by the USFWS; and
 - A monitoring program that describes annual monitoring efforts which incorporate success criteria and contingency plans if success criteria are not met.

MM BIO-1.8 Special-Status Plant Avoidance and Restoration

Rare plants (i.e. Hooker's manzanita, sandmat manzanita, Monterey spineflower, coast wallflower, and Kellogg's horkelia) shall be avoided to the greatest extent feasible. Rare plants not scheduled for removal shall be protected prior to and during construction to the maximum extent possible through the use of exclusionary fencing or flagging, such as construction fencing or hay bales. Only certified weed-free straw will be used to avoid the introduction of non-native, invasive species. A biological monitor will supervise the installation of protective fencing and monitor at least once per week until construction is complete to ensure that the protective fencing remains intact.

If avoidance is not feasible, the impacted area for each species shall be quantified during final design and each species shall be replaced at a 1:1 success ratio for the acreage or individuals impacted (depending on species impacted) and a Restoration Plan shall be prepared by a qualified biologist and implemented. The plan shall include, but is not limited to, the following:

- A description of the baseline conditions of the habitats within the work site, including the presence of any special-status species, their locations, and densities;
- Procedures to control and/or eliminate non-native invasive species within the work site;
- A detailed description of on-site and/or off-site restoration areas, salvage of seed and/or soil bank, plant salvage, seeding and planting specifications, which may include but is not limited to, an increased planting ratio to ensure the 1:1 success ratio; and

- A monitoring program that describes annual monitoring efforts which incorporate success criteria and contingency plans if success criteria are not met.

MM BIO-1.9 FESA Compliance

MST will comply with the Federal Endangered Species Act (FESA) and will obtain necessary authorization prior to construction of Segments 1-4.

Due to the presence and potential presence of federally listed species within the project site, including the SBB and Monterey spineflower, and Federal nexus (i.e., Federal funding), the Federal Transit Administration, acting as the NEPA lead agency for the proposed project, shall be required to initiate a Section 7 consultation with the USFWS and prepare a written analysis in the form of a Biological Assessment (BA) to determine whether their actions may affect a listed species. Based on the BA, the USFWS will issue a Biological Opinion (BO) regarding likely impacts as a result of implementing the project. Any further avoidance and minimization measures that may be required as a component of the BO will be implemented.

MM BIO-1.10 Special-Status Plant Surveys and HMP Compliance

A qualified biologist shall be retained to conduct surveys for Monterey spineflower and Yadon's piperia within the 5th Street Station. The surveys shall be conducted during the appropriate identification period(s) to determine presence or absence, according to USFWS, CDFW, and CNPS protocol. The biologist shall prepare a report that provides the results of the survey, and, if found the number and locations of individuals/populations identified.

- If no Monterey spineflower or Yadon's piperia are found, no further mitigation is necessary.
- If Monterey spineflower or Yadon's piperia are found, salvage efforts for these species will be evaluated by a qualified biologist in coordination with the MST prior to construction to further reduce impacts per the requirements of the HMP and 2017 Programmatic BO. Where salvage is determined feasible and proposed, seed collection should occur from plants within the development site and/or topsoil should be salvaged within occupied areas to be disturbed. Seeds should be collected during the appropriate time of year for each species as determined by the qualified biologist. The collected seeds and topsoil should be used to revegetate temporarily disturbed construction areas and reseeded and restoration efforts on- or off-site, as determined appropriate by the qualified biologist and MST.

MM BIO-2.11 Dune Scrub Restoration

Dune scrub shall be avoided to the greatest extent feasible. If avoidance is not feasible, dune scrub habitat shall be replaced at a 1:1 success ratio for the acreage impacted and a Restoration Plan shall be prepared by a qualified biologist and implemented. The plan shall include, but is not limited to, the following:

- A description of the baseline conditions of the habitat that will be impacted;
- A detailed description of on-site and/or off-site restoration areas, a planting palette, salvage of seed and/or soil bank, plant salvage, seeding and planting specifications, which may include, but is not limited to, an increased planting ratio to ensure the 1:1 success ratio;
- Procedures to control and/or eliminate non-native invasive species within the restoration site; and
- A monitoring program that describes annual monitoring efforts which incorporate success criteria and contingency plans if success criteria are not met.

MM BIO-4.12 Native Tree Protection and Replacement Measures

To maximize native tree retention and protection, a forester, arborist, or other tree care professional shall be involved in the review and development of final grading and construction plans wherever trees occur within the site or at the grading margins. To avoid unintended impacts to native trees outside the construction area, the following native tree protection measures shall be implemented:

- Temporary construction fencing shall be placed at approximately 10 feet from the trunk, limiting work within the dripline (e.g. and no grading, trenching, or vegetative alteration shall occur within this environmental exclusion zone). Grading, vegetation removal, and other ground disturbing construction activities may not commence until the project forester has inspected and approved the protective fencing installed by the contractor. No equipment or materials, including soil, shall be stored within the established environmental exclusion zone. Prior to grading within 25 feet of retained trees, the project forester, arborist, or other tree care professional shall be consulted to determine whether pruning is necessary to protect limbs from grading equipment.
- To avoid soil compaction from damaging the roots, heavy equipment shall not be allowed to drive over the root area. If deemed necessary and approved by the forester, equipment may drive across one side of the tree. To reduce soil compaction, wood chips shall be spread 6-12 inches deep to disperse the weight of equipment and plywood sheets shall be placed over the wood chips for added protection.
- Roots exposed by excavation must be pruned and recovered as quickly as possible to promote callusing, closure, and healthy regrowth.
- Retained trees shall be watered periodically in accordance with species need to promote tree health. Transplanted trees and their intended planting areas shall be pre-watered. Post planting watering shall be done as needed to assure establishment.
- When project design is completed, an estimate of the appropriate number of replacement trees shall be made based on available planting space. These replacement trees (minimum five-gallon specimens) shall be planted along boundaries and within landscape areas. Planting density for replacement trees shall be accurately detailed to allow for some unavoidable mortality over time.

- Transplants are encouraged and shall be credited on a 1:1 basis. Final replanting numbers may be modified by additional tree retention and should be made part of the final landscaping plan.

Cultural Resources and Tribal Cultural Resources

MM CR-1 Preconstruction Archaeological and Paleontological Sensitivity Training

Prior to construction, all personnel directly involved in project related ground disturbance shall be provided archaeological and paleontological sensitivity training. The training will be conducted by a qualified Archaeologist who meets the Secretary of the Interior’s standards for archaeology. The training will take place at a day and time to be determined in conjunction with the project construction foreman, and prior to any scheduled ground disturbance. The training will include: a discussion of applicable laws and penalties; samples or visual aids of artifacts and paleontological resources that could be encountered in the project vicinity, including what those artifacts and resources may look like partially buried, or wholly buried and freshly exposed; and instructions to halt work in the vicinity of any potential cultural resources discovery, and notify the archaeological monitor as necessary.

MM CR-2 Procedures for Inadvertent Discovery

Inadvertent Discovery of Archaeological or Tribal Cultural Resources

In the event archaeological resources are encountered during ground disturbing activities, contractor shall temporarily halt or divert excavations within a 100-foot radius of the find until it can be evaluated.

CEQA Guidelines requires that all potentially significant archaeological deposits be evaluated to demonstrate whether the resource is eligible for inclusion on the California Register of Historic Resources, even if discovered during construction. If archaeological deposits are encountered they will be evaluated and mitigated simultaneously in the timeliest manner practicable, allowing for recovery of materials and data by standard archaeological procedures. For prehistoric archaeological sites, this data recovery involves the hand-excavated recovery and non-destructive analysis of a small sample of the deposit. Historic resources are also sampled through hand excavation, though architectural features may require careful mechanical exposure and hand excavation.

Any previously undiscovered resources found during construction activities shall be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated for significance in terms of CEQA criteria by a qualified Archaeologist. Significant cultural resources consist of but are not limited to stone, bone, glass, ceramics, fossils, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites. If the resource is determined significant under CEQA, a qualified Archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant in accordance with Section 15064.5 of the CEQA Guidelines.

If such resources or artifacts are determined to be of native tribal origin, any mitigation or recovery program shall include direction from Ohlone/Costanoan Esselen Nation (OCEN) tribal leadership for proper handling and treatment.

The Archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report complete with methods, results, and recommendations, and provide for the permanent curation of the recovered resources. The report shall be submitted to MST, TAMC, the NWIC, and the State Historic Preservation Office, as required.

Inadvertent Discovery of Paleontological Resources

In the event that fossils or fossil-bearing deposits are discovered during construction activities, the contractor shall temporarily halt or divert excavations within a 100-foot radius of the find until it can be evaluated. If the find is deemed significant, the applicant shall retain a qualified Paleontologist to document the discovery as needed in accordance with Society of Vertebrate Paleontology standards and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The Paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction activities are allowed to resume at the location of the find. If the applicant determines that avoidance is not feasible, the Paleontologist shall prepare an Excavation Plan for mitigating the effect of construction activities on the discovery. The Excavation Plan shall be submitted to MST and TAMC for review and approval prior to implementation, and the applicant shall adhere to the recommendations in the Excavation Plan.

Inadvertent Discovery of Human Remains

In the event that human remains (or remains that may be human) are discovered at the project site, Public Resource Code Section 5097.98 must be followed. All grading or earthmoving activities shall immediately stop within a 100-foot radius of the find. The project proponent shall then inform the Monterey County Coroner and the respective city (e.g. City of Marina, Sand City, or Seaside) immediately, and the Coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b).

Section 7050.5 requires that excavation be stopped in the vicinity of discovered human remains until the Coroner can determine whether the remains are those of a Native American. If human remains are determined as those of Native American origin, the Applicant shall comply with the state relating to the disposition of Native American burials that fall within the jurisdiction of the NAHC (Public Resource Code [PRC] § 5097). The Coroner shall contact the NAHC to determine the most likely descendant(s) (MLD). The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site. The MLD will determine the most appropriate means of treating the human remains and associated grave artifacts, and shall oversee the disposition of the remains.

In the event the NAHC is unable to identify an MLD or the MLD fails to make a recommendation within 48 hours after being granted access to the site, the landowner

or his/her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity within the project area in a location not subject to further subsurface disturbance.

Geology and Soils

MM GEO-5 Final Geotechnical Evaluation

A construction level geotechnical evaluation shall be prepared and implemented for the project based on the final engineering plans. The project shall be required to adhere to and incorporate all standards and recommended engineering measures to mitigate for liquefaction, expansive soils and other local soil constraints. The final geotechnical evaluation will be prepared by MST and provided to the affected land use agencies for review prior to the issuance of local building permits or related local approvals.

Hazards and Hazardous Materials

MM HAZ-2.1: Soil and Groundwater Management Plan

A Soil and Groundwater Management Plan shall be prepared prior to ground disturbance, identifying the methods and procedures required to handle, store, transport and dispose of chemically impacted soil and groundwater. If groundwater is encountered during construction, groundwater sampling shall be conducted to determine contaminants and contamination levels. If contamination is found, a work plan shall be developed and implemented by the project geotechnical engineer consistent with the Management Plan to protect the health of construction workers.

MM HAZ-2.2: Work Plan

Once the construction plans showing the depth and extent of the excavation are completed for all project segments, a targeted soil and groundwater sampling shall be conducted in areas of known or suspected contamination prior to the start of disturbance in those areas. If contamination is found, a work plan shall be developed by the project geotechnical engineer to protect the health of construction workers.

MM HAZ-2.3: Asbestos and Lead Paint Survey

Any hazardous materials or wastes encountered before or during the demolition stage of the project shall be disposed of according to current regulatory guidelines. If any structures are to be removed or demolished, an asbestos and lead paint survey shall be conducted for compliance with National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations and air district rules.

MM HAZ-2.4 Worker Health and Safety Plan

A worker health and safety plan (HSP) that meets the provisions of California Code of Regulations (Title 22, Section 5192) shall be developed by the project contractor. HSP

procedures will address the identification, excavation, handling, and disposal of hazardous wastes and materials that may be found in construction areas. The HSP shall include Best Management Practices (BMPs) that all contractors must employ during construction.