

CONDITIONS OF APPROVAL FOR PANTAGES APPROVED BY COUNTY PLANNING COMMISSION 7/21/15 COUNTY FILES: SD06-9010 & DP14-3017

Administrative

1. ____ This approval is based on the exhibits/reports/letters received by the Department of Conservation and Development, Community Development Division (CDD) and/or referenced in the Pantages Bays Addendum dated November 2014, the Pantages Bays Residential Development Project Final Environmental Impact Report, dated July 2013 or the Conditions of Approval below, including the following:
 - A. Sheets 1 through 13 of Project Plans (received by CDD November 18, 2014) titled "Subdivision 9010 Comparison Plan – Pantages Bays, Modified September 2014", including Sheet 5 - Modified Final Development Plan and Sheet 7 - Modified Vesting Tentative Map.
 - B. Tree Reports: HortScience October 2006 & August 2007.
 - C. Biology: Conceptual Wetland and Emergent Marsh Preservation and Mitigation Plan for Pantages, Gibson & Skordal 2006 / Evaluation of potential California red-legged frog, Miriam Green Associates 2010. / Evaluation of giant garter snake, Miriam Green Associates 2010. / Results of special-status species, Miriam Green Associates 2003. / Response to CDFG Comments, Miriam Green Associates August 31, 2012. / Listed Vernal Pool Branchiopods [fairy shrimp] Wet Season Survey Pantages Property, Gibson & Skordal, LLC May 2003. / Dry Season Fairy Shrimp Survey Pantages Property, EcoAnalysts, Inc. August 4, 2003. / Pantages Bays Aquatic Resources Report, Stillwater Sciences May 2007. / Bank Habitat Plan, Sheet 7 of 11 on Pantages Bays Plans October, 2009. / Modified Table 8 Quantity (feet) and quality of dominant bank habitat affected by the project, Stillwater Sciences June 2010. / Modified Table 9 Quantity (feet) and quality of dominant bank habitat affected by the project, Stillwater Sciences June 2010. / Response to CDFG Comments, Stillwater Sciences September 26, 2012.

- D. Geology: Engeo, updated geotechnical report 2014, Preliminary Geotechnical Exploration, ENGEO 1999. / Geotechnical Exploration Pantages, ENGEO June 23, 2004. / Geotechnical Exploration Pantages Bays ENGEO September 22, 2006 (revised October 27, 2006). / Summary of Potential Settlement, ENGEO 2011. / Phase One Environmental Site Assessment, ENGEO January 26, 2005.
- E. Hydrology: Pantages Bays Storm Water Control Plan C.3 Report, dk Consulting 2006/ Draft Additional Hydrology Impact Assessment Memorandum, PWA 2010. / Numerical Modeling of Discovery Bay: Evaluation of Pantages Bays Project, RMA 2006.
- F. Landscaping: Preliminary Landscape Plan, Sheet 13 of 13 on Pantages Bays Plans Modified September 2014.
- G. Mooring Plan: Sheet 8 of 13 on Pantages Bays Plans Modified September 2014 (refer to Sheet 9 for correct bank habitat design for high quality and moderate quality enhanced or recreated creek bank).
- H. Wetlands Delineation Plan Sheet 10 of 13 on Pantages Bays Plans Modified September 2014. / Jurisdictional Delineation Pantages Property, Gibson & Skordal, LLC December, 2002 and verified by Army Corp letter dated June 4, 2003. / Supplemental Delineation Request-Pantages Project, Gibson & Skordal, LLC October 11, 2006. / Army Corps letter dated January 7, 2009, verifying Jurisdictional Delineation Map Pantages Properties May 2008.
- I. Trails, Sidewalk & View Fencing Plan: Sheet 11 of 13 on Pantages Bays Plans Modified September 2014. / Open Fencing – View Corridor Plan Exhibit, Environmental Foresight, Inc. April 9, 2010.
- J. Street, Open Space, Water, Marine Patrol Substation & Landscape Parcels: Sheet 12 of 13 on Pantages Bays Plans modified September 2014.
- K. Pantages letter to Sheriff's Office March 25, 2008, regarding marine patrol substation. / Sheriff's Office response letter to Pantages May 21, 2008. / Sheriff Substation & 2-Boat Dock Exhibit August, 2008. Email, dated September 19, 2013 from Mark Williams,

Assistant Sheriff to Mark Armstrong, Applicant, regarding reconfigured marine patrol substation.

- L. Letters from the Contra Costa County Fire Protection District to CDD (May 15, 2014) (November 17, 2009; June 22, 2007; August 18, 2005; July 28, 2005; September 15, 2004), and from Pantages to CCCFPD August 24, 2005.
- M. Plates 1 through 7 of this County Planning Commission Staff Report that include, Plate 1- Sequence of construction, Plate 2- Bay construction, Plate 3 – Final Development Plan, Modified September 2014, Plate 4 Pattern of development, Plate 5 – Pantages Design Standards and Plate 6 – Project Entry, Plate 7 – Sea Level Rise.

2. ____ This subdivision is approved contingent upon the following Board of Supervisors actions;

- A. Approval of the proposed modified General Plan amendment from SH, SM, PS, OS and WA to a modified configuration of those same land use designations (County File #GP99-0008)
- B. Approval of the proposed modified Rezoning from P-1 to a modified configuration of that same zoning designation (County File #RZ04-3146)

This approval allows for a maximum of 292 residential lots.

Fees

3. ____ This application is subject to an initial application fee, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial fee. Any additional fees due must be paid within 60 days of the permit effective date or prior to use of the permit whichever occurs first. The fees include costs through permit issuance plus five working days for file preparation. You may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

Indemnification

4. ____ Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the County, agents, officers, and employees from any claim, action, or proceeding against the Agency (the County) or its agents, officers, or employees to attack, set aside, void, or annul, the Agency's approval concerning this subdivision map application, which action is brought within the time period provided in Section 66499.37. The County will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.

Compliance Report

5. ____ At least 45 days prior to filing a Final Map or issuance of a grading permit, whichever occurs first, the applicant shall submit a report on compliance with the Conditions of Approval/Mitigation Measures with this permit for the review and approval of the Department of Conservation and Development, Community Development Division (CDD). The fee for this application is a deposit of \$1,000 that is subject to time and materials costs. Should staff costs exceed the deposit, additional fees will be required.
- a. Except for those Conditions administered by the Public Works Department, the report shall list each Condition followed by a description of what the applicant has provided as evidence of compliance with that Condition. (A copy of the computer file containing the Conditions of Approval may be available; to try to obtain a copy, contact the project planner at 674-7793).
 - b. Unless otherwise indicated, the applicant will be required to demonstrate compliance with the condition of this report prior to filing the Final Map.

Child Care

6. ____ Upon the issuance of building permits, the developer shall pay a fee of \$400.00 per lot upon which a residence is being built for childcare facility needs in the area as established by the Board of Supervisors.

Police Services

7A. ___ ___ The owner of the property shall participate in the provision of funding to maintain and augment police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be the per parcel annual amount (with appropriate future CPI adjustment) then established at the time of voting by the Board of Supervisors. The election to provide for the tax shall be completed prior to filing the Final Map. The property owner shall be responsible for paying the cost of holding the election, payable at the time the election is requested by the owner. Allow a minimum of three to four months for processing.

7B. ___ ___ Prior to approval of the Final Map, the applicant shall offer to dedicate Parcel "I" (0.51 acres more or less) on the Vesting Tentative Map and Preliminary Grading Plan (Sheet 7 of the Pantages Bays Plans, Modified September 2014) to Contra Costa County for use as a Sheriff's marine patrol substation and boat dock. The offer to dedicate shall also include a mooring easement in favor of the County for the boat dock. The applicant shall be responsible for constructing on Parcel "I" a Sheriff's Marine Patrol Substation, docks and landing space for a Medevac helicopter after construction of the project streets, utilities and Emergency Vehicle Access (EVA) and prior to the 150th occupancy permit.

The following improvements shall be constructed by the applicant on Parcel "I":

- Sheriff's Marine Patrol Substation; an approximately 2,160 square foot, one story, permanent modular building ("three wide" units, 12 X 60 feet each) elevated above the 100-year flood plain (taking into account State projections on sea level rise) with the following improvements:

Restroom (sewer and water hook-ups), electricity (power), air conditioning, appropriate low glare outside lighting, native low maintenance/low water usage landscaping, remote control and video camera transmission of the project entry vehicular gate from the substation.

- A boat dock to accommodate 3 boats and Sheriff's personal water craft (the Office of the Sheriff will supply any boat hoist and be co-applicant for dock permit),
- A pre-engineered 2 door garage on slab, 25x25 feet in size with a 10 ft. ceiling and roll up doors,
- Emergency vehicle access road and turn-around, with a compacted gravel surface elevated about the 100-year flood plain (taking into account State projections on sea level rise).
- Approximately 100' x 100' landing pad for Medivac helicopter.

At least 60 days prior to issuance of building permits for the Sheriff's substation and dock the applicant shall submit plans to the Office of the Sheriff for its review and comment and to CDD for its review and approval.

Air Quality

8. ____ Wood burning fireplaces or stoves shall not be permitted. Only natural gas fireplaces or stoves shall be permitted. Project plans shall not include wood burning fireplaces or stoves and shall clearly indicate the prohibition against such use. That prohibition includes outdoor wood burning fireplaces, ovens or similar wood burning features. **(Mitigation Measure AQ-1)**

9. ____ To reduce the air quality impacts of PM associated with grading and new construction, the project applicant shall incorporate the following mitigation measures for all phases of construction:
 - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
 - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - Post a publicly visible sign with the telephone number and person to contact at the on-site complaint and enforcement manager (COA#44) regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.
- (Mitigation Measure AQ-2a)**

10. ____ To reduce health risks from TACs during project construction, the project applicant shall incorporate the following mitigation measures into the project:

- Minimize the idling time of diesel powered construction equipment to two minutes;
- Develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction of the project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NO_x reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable option for reducing emissions includes the use of late model engines, low-emission diesel projects, alternative fuels, engine retrofit technology, after-treatment projects, add-on devices such as particulate filters, and /or other options as such become available;
- Require that all construction equipment, diesel trucks, and generators be equipped with best available technology for emission reductions of NO_x and PM; and
- Require all contractors use equipment that meets CARB's more recent certification standard for off-road heavy duty diesel engines.

(Mitigation Measure AQ-2b)

Biology

Special-Status Plants

11. ____ A. Prior to site disturbance a pre-construction survey for the Delta button celery (*Eryngium racemosum*) shall be conducted by a qualified biologist during the plant's blooming period (June to October). The survey shall be conducted in the area of the project site south of Point of Timber Road. If Delta button celery is not found, no further mitigation is needed. If Delta button celery is found, a qualified biologist shall implement feasible alternative measures such as plant relocation, seed collection, propagation or other suitable measures, including monitoring and reporting, that would reasonably reduce the potential impacts on Delta button celery. The qualified biologist shall coordinate implementation of these measures with the California Department of Fish and Game and efforts shall be consistent with related protocols. **(Mitigation Measure BIO-A)**
- B. Prior to site disturbance pre-construction special-status plant surveys shall be conducted by a qualified biologist. Pre-construction surveys shall occur during the season that provides an adequate opportunity to identify occurrences of any special-status plants. If no special-status plants are found, no further mitigation is needed. If a special-status plant or plants are found, a qualified biologist shall implement feasible alternative measures such as plant relocation, seed collection, propagation or other suitable measures, including monitoring and reporting, that would reasonably reduce the potential impacts to the identified special-status plant. The qualified biologist shall coordinate implementation of these measures with the California Department of Fish and Game and efforts shall be consistent with related protocols. **(Mitigation Measure BIO-A)**

Landscape Trees

12. ____ To offset impacts resulting from the removal of 80 trees on the project site, the project includes landscaping with approximately 1,019 trees that would be planted along the project roadways and at the project site entry as part of the proposed landscaping. This is an approximately 9.5:1 mitigation ratio. Comply with the following landscape/irrigation improvement and initial protection requirements subject to the review and

approval of the Department of Conservation and Development, Community Development Division (CDD):

- a. Final Landscape Plan: At least 30 days prior to the issuance of a grading permit a final landscape/irrigation plan, prepared by a licensed landscape architect shall be submitted to the CDD for review and approval. The Final Plan shall be designed in general accord with the preliminary landscape plan, Sheet 13 on Pantages Plan Modified September 2014.
 - b. Minimum Size Plants: All proposed trees shall be a minimum of 15-gallon size; all shrubs shall be a minimum 5-gallon size.
 - c. Maintenance Cost: Landscaping shall generally be designed to minimize landscape maintenance cost.
 - d. Compliance with Water Conservation and Sight Obstruction Ordinance Requirements: The plan shall comply with the State's Model Water Efficient Landscape (or with the County Ordinance if one is adopted) and with the Sight Obstruction at Intersections ordinance (Chapter 82-18). The latter ordinance applies to intersections with public roads. The landscape architect shall certify that the plan complies with the ordinance improvement standards and reporting requirements.
 - e. To assure the long term viability of this landscaping the applicant shall post a bond for the value of the landscaping, installation plus 20%. The term of the bond shall extend 24 months beyond the installation of landscaping. Prior to the acceptance of the bond by the County a qualified landscape designer shall assess the value of the landscape and provide a copy of that assessment to the Community Development Department. Prior to the release of the bond a landscape designer shall submit a letter to CDD that the landscaping is in good health.
- (Mitigation Measure BIO-1)**

Creek Bank Habitat

13. ____ a. Prior to filing of the Final Map the applicant shall provide CDD with proof of permits required from resource agencies (for example, a Section 404 permit, Section 401 permit, Section 1602 permit) or absence of requirements for such permits. Prior to removal or reconstruction of bank habitat along Kellogg Creek or disturbing any creek/channel banks within the project site and at Pantages Island, the applicant shall contact the CDFG, the Corps, the RWQCB, and the

Reclamation Board and determine if permits are warranted for the activities pursuant to the regulations that are in effect.

- b. All mitigation measures implemented to improve bank habitat shall be approved by the Corps, the RWQCB, CDFG, and the Reclamation Board (if necessary) through issuance of necessary permits prior to recordation of Final Map.
- c. Mitigation for loss of bank habitat shall be completed as prescribed by the CDFG, Corps, RWQCB, and Reclamation Board.
- d. Specifically, the applicant shall mitigate for the loss of 9,720 lineal feet of excavated low (4,527 lf), moderate quality (4,781 lf) and high quality bank habitat (412 lf) by: (1) enhancement of 9,157 lineal feet of existing low and moderate low quality bank habitat, both on site and off site, to high quality bank habitat (shaded riverine aquatic habitat and shallow water habitat) on Pantages Island, ECCID Property on the south side of the ECCID Dredge Cut/Channel, Old Kellogg Creek, and Kellogg Creek between Newport Drive and State Route 4; and (2) creation of 1,903 lineal feet of moderate quality bank habitat (shallow sloping or level bench to MHW with riparian trees and grasses, rip-rap with willows between MHW and MLW) on the excavated portion of Pantages Island, and the North Cove to near the end of Kellogg Creek. Bank habitat mitigation totals approximately 11,060 lineal feet, which exceeds removal lineal footage by 1,340 lineal feet.
- e. Enhance existing bank habitat or create new bank habitat on site and off site, approximately 11,060 linear feet in total, including: (1) shaded riverine aquatic habitat and shallow water habitat (high quality bank habitat) on the westerly, northerly and southerly sides of Pantages Island, the ECCID portion of the project site, and the creek bank ECCID easement area west of the project site (1,464 lf) from the Pantages property line to the bridge, and Kellogg Creek between Newport Drive and State Highway 4 (3,688 lf owned by RD 800); and (2) moderate quality bank habitat (1,903 lf) along Kellogg Creek on the easterly side of Pantages Island, and the northerly side of the north cove to the northeasterly end of the project site. The creek bank and revegetation design that creates moderate quality habitat following excavation will include the following:
 - i. Riprap with willow plantings may be established between mean low water (MLW) and mean high water (MHW) to provide additional stabilization and some shaded riverine aquatic habitat.

- ii. A shallow sloping or level bench may be established at approximately MHW to support larger riparian trees such as Fremont cottonwood.
- iii. The upper bank may be sloped at 5:1 and also planted with riparian trees and grasses.
- iv. Riparian trees planted along the shallow sloping or level bench may be planted on 15-foot centers to ensure adequate bank coverage.
- v. Native riparian trees such as valley oaks, California buckeyes, and Fremont cottonwoods and native grasses can be used for revegetation.
- vi. The planted riparian trees shall be monitored by a biologist or arborist annually for a period of 5 years to ensure that mortality does not exceed 20 percent after 5 years. If there is greater than 20 percent mortality of planted trees after 5 years, the project proponent shall be responsible for replanting and monitoring the trees for an additional 3-year period.
- vii. During the 5-year monitoring period invasive weed monitoring shall also be conducted. In the event an increase in the distribution or density of invasive plants is documented (for example, water hyacinth or Brazilian waterweed), an invasive weed management and eradication program shall be developed and implemented.
- viii. A performance bond, letter of credit, or other financial instrument shall be established to pay for any remedial work that might need to occur.
- ix.

To improve the overall habitat value of the bank, installation of tree species along the lower bank may be possible by installing Sonatubes in the rip-rap and planting the trees within these tubes. The Sonatubes allow trees to grow along rip-rap banks without harming the integrity of the bank. An alternative bank stabilization method other than rip-rap, which provides and same or better overall quality of the habitat and provides for sufficient protection against wave action, may be considered.
- g. Low and moderate quality habitat along the south side of the ECCID Dredge Cut/Intake Channel to the Lakeshore/Lakes bridge, along the westerly, northerly and southerly sides of Pantages Island, in the section of Old Kellogg creek at the southwestern end of the project

site, and along the east and west sides of Kellogg Creek between Newport Drive and State Route 4, shall be restored to high quality habitat by creating a slope setback.

- h. The setback shall be created by excavating existing bank material from approximately MLW to the top of the bank.
 - i. An intertidal berm with a 10:1 or 20:1 slope shall be established to create shallow water habitat and stabilize the bank.
 - ii. The berm shall be planted with tules to provide in-water resting and hiding places for fish.
 - iii. The upper bank shall be sloped at 3:1 or 5:1 and planted with native riparian trees and shrubs to create shaded riverine aquatic habitat.
 - iv. Trees and shrubs planted along upper bank shall be monitored by a qualified biologist or arborist for a minimum 5-year period. If there is greater than 20 percent mortality of planted trees and shrubs after 5 years, the applicant shall be responsible for replanting and monitoring the trees for an additional 3-year period.
 - v. During the 5-year monitoring period invasive weed monitoring shall also be conducted. In the event an increase in the distribution or density of invasive plants is documented (for example, water hyacinth or Brazilian waterweed), an invasive weed management and eradication program shall be developed and implemented.
 - vi. A performance bond, letter of credit, or other financial instrument shall be established to pay for any remedial work that might need to occur.

Existing low and moderate quality bank habitat around the westerly, northerly and southerly perimeter of Pantages Island shall be restored to high-quality habitat by implementing the setback design as described for the ECCID Dredge Cut/Intake Channel. This design shall be established around most of the island, except for bank habitat adjacent to Kellogg Creek. Bank habitat along Kellogg Creek shall be stabilized with riprap (see subsection 13.e.i above) to prevent erosion due to wave action from existing and future boater activity. Therefore, this area of Pantages Island will be designed to provide moderate-quality bank habitat as prescribed above in subsection 13.e. Also to address wave action, moderate quality habitat shall be created

along the northerly side of the North Cove. (**Mitigation Measure BIO-2**)

Vernal pool fairy shrimp

14. ____ a. Any necessary resource agency permits related to vernal pool fairy shrimp shall be issued, and evidence thereof provide to CDD, prior to filing of the Final Map. In order to offset the project's impact on vernal pool fairy shrimp the applicant shall implement one of the following measures:
- i. Purchase credits in an existing fairy shrimp mitigation bank at a ratio determined during negotiations with USFWS during Section 7 Consultation between the Corps and the USFWS;
 - ii. Acquire suitable mitigation property via fee title at a ratio determined during negotiations with USFWS during Section 7 Consultation between the Corps and the USFWS; or
 - iii. With permission from state and federal regulatory agencies and in agreement with the Conservancy, the project proponent shall make a financial contribution to the Conservancy, to offset the project's impact to the vernal pool fairy shrimp. The financial contribution to the Conservancy or the amount of mitigation land that shall be purchased via fee title shall be determined during negotiations with USFWS during Section 7 consultation between the Corps and the USFWS.
- b. Prior to impacting the seasonal wetland where the vernal pool fairy shrimp were found, documentation of the mitigation transaction (e.g., financial contribution to the Conservancy), and/or a copy of the Biological Opinion outlining the mitigation requirements and incidental take statement from USFWS, shall be provided to CDD.
- c. Prior to grading onsite, and as prescribed in a Biological Opinion issued for the project, topsoils from the wetland containing the fairy shrimp egg bank shall be scalped by a qualified federal 10(a)(1)(A) permitted biologist and redeposited in appropriate seasonal mitigation wetlands that shall be created within the wetland mitigation preserve onsite.
- (Mitigation Measure BIO-3)**

California red-legged frog

15. ____ a. Any necessary resource agency permits related to California red-legged frog shall be issued, and evidence thereof provide to CDD, prior to

filing of the Final Map. Mitigation shall be 1:1 for impacts to aquatic and upland buffer habitat, that is, for each 1 acre of aquatic or upland buffer habitat impacted, 1 acre of compensatory habitat shall be preserved onsite or acquired offsite in a suitable location) or mitigation may be as required by the USFWS during consultation initiated by the Corps with USFWS pursuant to Section 7 of FESA.

- b. Replacement habitat can be acquired via fee title acquisition of land, contribution into an existing mitigation bank, or, with permission from state and federal regulatory agencies and in agreement with the Conservancy, the applicant may make a financial contribution to the Conservancy.
- c. Any mitigation and subsequent monitoring requirement stipulated in permits/ authorizations issued by the USFWS and the Corps for this project shall be completed as stated in the permits/authorizations. Copies of all survey reports and monitoring reports required by USFWS in the conditions of the Biological Opinion shall be submitted to CDD.
- d. Prior to filing of the Final Map CDD shall receive copies of all agency agreements/ authorizations related to this species. **(Mitigation Measure BIO-4)**

Giant garter snake

16. ____ a. Any necessary resource agency permits related to Giant garter snake shall be issued, and evidence thereof provide to CDD, prior to recordation of the Final Map. Mitigation shall be 1:1 for impacts to suitable aquatic and upland habitat (that is, for each 1 acre of suitable aquatic and upland habitat impacted, 1 acre of compensatory habitat shall be preserved onsite or acquired offsite in a suitable location) or mitigation may be as required by the USFWS during consultation initiated by the Corps with USFWS pursuant to Section 7 of FESA.
- b. Replacement habitat can be acquired via fee title acquisition of land, contribution into an existing mitigation bank, or, with permission from state and federal regulatory agencies and in agreement with the Conservancy, the project proponent may make a financial contribution to the Conservancy. Any mitigation and subsequent monitoring requirement stipulated in permits/ authorizations issued by the USFWS and the Corps for this project shall be completed as stated in the permits/authorizations.

- c. Prior to filing of the Final Map CDD shall receive copies of all agency agreements/authorizations related to this species (**Mitigation Measure BIO-5**)

Western pond turtle

17. ____ Any necessary resource agency permits related to western pond turtle shall be issued, and evidence thereof provide to CDD, prior to filing of the Final Map. Prior to site disturbance in the affected area, the applicant shall install turbidity barriers around construction areas in Kellogg Creek and the buffers protecting the preserved emergent marsh to ensure that western pond turtles do not enter the project construction areas.

The western pond turtle is not a state listed species; therefore, it is not protected pursuant to the California Endangered Species Act. Thus, the resource agencies (CDFG and USFWS) do not have specific mitigation guidelines that must be followed to offset a project's impact to the western pond turtle. Mitigation for this special-status species is determined on a project by project basis. It is likely that any mitigation implemented for the California red-legged frog and the giant garter snake would also mitigate the proposed project's impact on the western pond turtle. The mitigation measure for impacts to these two listed species would be a 1:1 mitigation ratio (that is, for each 1 acre of impact, 1 acre of mitigation land would be acquired offsite or preserved onsite) for impacts to aquatic habitat and a surrounding upland buffer area, or mitigation would be as worked out by the applicant, the USFWS, and the Corps at the time applications for permits/authorizations from these two agencies are submitted. Replacement habitat can be acquired via fee title acquisition of land, contribution into an existing mitigation bank, or, with permission from state and federal regulatory agencies and in agreement with the Conservancy, the applicant may make a financial contribution to the Conservancy. (**Mitigation Measure BIO-6**)

Federal and / or State listed fish species

18. ____ Federal and/or State listed fish species and California species of special concern fish.
 - a. To minimize potential impacts to federal and/or state listed fish and California "species of special concern" during construction and

dredging of the two interior bays, a levee shall be maintained between the area to be excavated and the Kellogg Creek channel.

- b. A qualified fisheries biologist shall be onsite during all pumping and siphoning activity to ensure that these activities do not result in take of federal and/or state listed fish and California "species of special concern."
- c. Silt curtains or suction dredges shall be used when conducting work in the ECCID Dredge Cut/Intake Channel and Kellogg Creek. Use of this equipment will localize sediment movement and protect fish from entrainment and the effects of increased turbidity.
- d. All in-water work shall be conducted between August 1 and November 30 to minimize the potential for take of threatened and endangered fish species. By conducting work within this time period, the project will avoid most critical spawning, migratory, and dispersal periods for listed fish species.
- e. Long-term impacts to fish are not expected provided the proposed bank habitat mitigation to re-create and replace impacted bank habitat is implemented by the applicant. **(Mitigation Measure BIO-7)**

Tree nesting raptors

19. ____
- a. Prior to site disturbance a preconstruction nesting survey of the trees to be removed shall be conducted within 30 days of the scheduled removal to ensure no birds are nesting. If possible, tree removal shall be completed outside the nesting season (that is, between September 2 and February 28).
 - b. If construction or tree removal would commence between March 1 and September 1 during the nesting season, nesting surveys shall be conducted 30 days prior to grading/construction of the project or any proposed tree removal work. The raptor nesting surveys shall include examination of all trees and shrubs within sphere of influence of the proposed project, and not just of those trees slated for removal.
 - c. If nesting raptors are identified during the surveys, the dripline of the nest tree shall be fenced with orange construction fencing (provided the tree is on the project site), and a 300-foot radius around the nest tree shall be staked with bright orange lath or other suitable staking.
 - d. If the tree is adjacent to the project site then the buffer shall be demarcated per above where the buffer occurs on the project site. The size of the buffer may be altered if a qualified raptor biologist conducts

behavioral observations and determines the nesting raptors are well acclimated to disturbance. If this occurs, the raptor biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/ harassment to the nesting raptors. This buffer may be reduced no smaller than 100 feet from the nest tree.

- e. No construction or earth-moving activity shall occur within the established buffer until it is determined by a qualified raptor biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones. This typically occurs by August 1. This date may be earlier than August 1 or later, and would have to be determined by a qualified raptor biologist.
(Mitigation Measure BIO-8)

Swainson's hawk

20. ____
- a. Any necessary resource agency permits related to Swainson's hawk shall be issued, and evidence thereof provide to CDD, prior to filing of the Final Map. To meet the CDFG's mitigation requirements for impacts to Swainson's hawk foraging habitat the applicant shall implement one of the following scenarios:
 - i. Dedicate and preserve 135 acres of habitat¹ (this is a 1:1 impact to mitigation ratio), as approved by CDFG, to a conservation organization. An operating endowment shall be provided to the conservation organization to manage any preserved lands in perpetuity.
 - ii. With permission from state and federal regulatory agencies and in agreement with the Conservancy, the applicant may make a financial contribution to the Conservancy, commensurate with approximately 135 acres of impacts to Swainson's hawk foraging habitat (see footnote below).
 - b. Prior to site disturbance to ensure that no impacts occur to any nesting Swainson's hawks (on or adjacent to the project site), preconstruction nesting surveys shall be conducted in conformance with Recommended Timing and Methodology for Swainson's Hawk Nesting

¹ The mitigation requirement for 135 acres is the 171-acre p_{roject} site minus the 36.43 acres of Corps jurisdictional waters of the U.S. onsite which do not provide foraging habitat for Swainson's hawk.

Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee, 2000).

- c. If an active nest is found within 0.25 miles of the project site "to avoid potential violation of Fish and Game Code 2080 (i.e., killing of listed species), project-related disturbance at active Swainson's hawk nesting sites should be reduced or eliminated during critical phases of the nesting cycle (March 1- September 15 annually)"(CDFG 1994).
- d. If Swainson's hawks are found nesting on the project site, a qualified raptor biologist shall establish a non-disturbance boundary around the nesting site. The size of this non-disturbance boundary shall be determined by the qualified raptor biologist in the field and in coordination with CDFG. The buffer shall be based on the location of the nesting tree, the birds' tolerance of noise and other disturbance (e.g., ground vibrations).
- e. Upon completion of nesting cycle, as determined by a qualified raptor biologist, and in coordination with CDFG, any non-disturbance boundary/nest buffer could be vacated.
- f. If the nest tree must be removed as part of the project, removal of this tree shall be mitigated in accordance with the mitigation measure prescribed for tree removal impacts in Mitigation Measure BIO-1. Tree planting is proposed as mitigation at a 9.5:1 ratio (that is, planting: removal). Replacement nest trees shall be native species (such as oaks or cottonwoods). **(Mitigation Measure BIO-9)**

Western burrowing owl

21. ____ Any necessary resource agency permits related to western burrowing owl shall be issued, and evidence thereof provide to CDD, prior to ground disturbance activities. Western burrowing owl surveys conducted according to the methodologies prescribed by CDFG in their *Staff Report on Burrowing Owl Mitigation*, dated March 7, 2012. Below we provide a summary of the survey methodologies contained in the *Staff Report on Burrowing Owl Mitigation* that would be applicable to the project site. These surveys would meet the standards of care required by CEQA for conducting surveys.
- a. Initiating Survey. An initial take avoidance survey shall be conducted no less than 14 days prior to initiating ground disturbance activities. Burrowing owls may re-colonize a site after only a few days. Time lapses between project activities will trigger subsequent take avoidance

surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.

- b. Number of visits and timing. Conduct four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15.
- c. Survey method. Conduct surveys by walking straight-line transects spaced 7 meters (m) to 20 m apart, adjusting for vegetation height and density. At the start of each transect and, at least, every 100 m, scan the entire visible project area for burrowing owls using binoculars. During walking surveys, record all potential burrows used by burrowing owls as determined by the presence of one or more burrowing owls, pellets, prey remains, whitewash, or decoration. Some burrowing owls may be detected by their calls, so observers should also listen for burrowing owls while conducting the survey.
- d. Weather conditions. Poor weather may affect the surveyor's ability to detect burrowing owls, therefore, avoid conducting surveys when wind speed is >20 km/hr, and there is precipitation or dense fog. Surveys have greater detection probability if conducted when ambient temperatures are >20° C, <12 km/hr winds, and cloud cover is <75%.
- e. Time of day. Daily timing of surveys varies according to the literature, latitude, and survey method. However, surveys between morning civil twilight and 10:00 AM and two hours before sunset until evening civil twilight provide the highest detection probabilities.
- f. Avoiding burrowing owls. A primary goal is to design and implement projects to seasonally and spatially avoid negative impacts and disturbances that could result in take of burrowing owls, nests, or eggs. Avoidance measures may include but not be limited to:
 - Avoid disturbing occupied burrows during the nesting period, from February 1 through August 31.
 - Avoid impacting burrows occupied during the non-breeding season by migratory or non-migratory resident burrowing owls.
 - Avoid direct destruction of burrows through chaining (dragging a heavy chain over an area to remove shrubs), disking, cultivation, and urban, industrial, or agricultural development.
 - Develop and implement a worker awareness program to increase the on-site worker's recognition of and commitment to burrowing owl protection.
 - Place visible markers near burrows to ensure that equipment and other machinery do not collapse burrows.

- Do not fumigate, use treated bait or other means of poisoning nuisance animals in areas where burrowing owls are known or suspected to occur (e.g., sites observed with nesting owls, designated use areas).
 - Restrict the use of treated grain to poison mammals to the months of January and February.
- g. Minimizing Impacts. If burrowing owls and their habitat can be protected in place on or adjacent to the project site, the use of buffer zones, visual screens or other measures while project activities are occurring can minimize disturbance impacts. A qualified biologist shall conduct site-specific monitoring to inform the project proponent of buffer requirements. See Staff Report on Burrowing Owl Mitigation (2012) for additional guidance.
- h. Permanent Impacts. Refer to Staff Report on Burrowing Owl Mitigation (2012) for additional guidance regarding mitigation of permanent impacts to burrowing owl habitat loss.
- i. With permission from state and federal regulatory agencies and in agreement with the Conservancy, the applicant may make a financial contribution to the Conservancy to mitigate impacts to burrowing owls and burrowing owl habitat. **(Mitigation Measure BIO-10)**

Impacts to other nesting birds

22. ____ a. Prior to site disturbance a nesting survey shall be conducted no more than 14 days prior to tree removal and/or breaking ground (surveys should be conducted a minimum of 3 separate days during the 14 days prior to disturbance) prior to commencing with construction work if this work would commence between February 1 and September 1. If a lapse in project-related work of 15 days or longer occurs, another focused survey consistent with related protocols and if required, consultation with CDFG shall occur before project work can be reinitiated.
- b. If special-status birds, such as loggerhead shrike, tri-colored blackbird, and/or California black rail, are identified nesting within the area of affect, the project sponsor shall contact CDFG regarding appropriate buffer sizes and shall fence off a non- disturbance radius around the nest according to this measure. **(Mitigation Measure BIO-11)**

Waters of the United States and / or State

23. ____ The necessary resource agency permits related to Waters of the United States and / or State shall be obtained and evidence thereof provide to CDD, prior to filing of the Final Map. Authorization from the Army Corps of Engineers (Corps) and the Regional Water Quality Control Board (RWQCB) (e.g. Individual Permit and a Certification of Water Quality) shall be obtained prior to filling any waters of the U.S./State on the project site.

In conformance with the *Conceptual Wetland and Emergent Marsh Preservation and Mitigation Plan* for Pantages Bays prepared by Gibson & Skordal, LLC (dated November 15, 2006). the project shall minimize impacts by:

- grading home pads to drain toward streets and away from open space areas, landscaping with native plants,
- construction of bioswales,
- maintaining natural buffers between the development and the preserved marsh habitat within the open space areas,
- using native plantings as landscaping buffers between development and open space preserve areas. An exception is at the Emergency Vehicle Access (EVA) crossing of the marsh where there is no buffer.
- The open space preserve area shall be separated from adjacent residential development with permanent residential fencing that protects the open space preserve from unauthorized use while providing a visual connection to the open space.
- Residential fences shall be tubular steel or some other form of permanent, visually open, fencing where houses back up to the open space preserve. In addition, along the EVA/trail, kiosks with educational signage shall be developed to reduce human-induced impacts.

Impacts to waters of the United States/State shall also be minimized by implementing the following measures:

- a. The project proponent shall implement best management practices consistent with the Storm Water Pollution Prevention Plan (SWPPP) prepared for the project to protect the emergent marsh and wetland mitigation area, including installing orange construction fencing, hay or gravel waddles, and other protective measures.

- b. During project construction, a biological monitor shall be onsite to monitor the integrity of preserved wetlands and other waters.
- c. For those wetland areas that cannot be avoided, compensation wetlands shall be enhanced/created to replace those wetlands permanently affected by project activities. If possible, wetlands shall be created on-site and shall resemble those wetlands affected by the project (known as in-kind replacement).
- d. All impacted wetlands shall be replaced at a minimum 1:1 ratio (for each square foot of impact, one square foot of wetland would be enhanced/created) or as otherwise specified in permitting conditions imposed by the Corps and RWQCB.
- e. The specific mitigation for the project consists of the components listed here:
 - Creation of approximately 5.29 acres of seasonal wetland on-site;
 - Creation of approximately 0.30 acre of marsh habitat on-site;
 - Creation and enhancement of approximately 11,060 linear feet of bank habitat on-site and off-site (the off-site mitigation includes the ECCID Dredge Cut from the Pantages property line to the bridge linking Lakeshore and Lakes neighborhoods (1,464 lf) and the RD 800 Kellogg Creek banks from Newport Drive to State Route 4 (3,688lf)), including shaded riverine aquatic habitat and shallow water habitat; Creation of approximately 46 acres of open water habitat on-site;
 - Preservation of all avoided and created aquatic areas; and
 - Implementation of a comprehensive long-term storm water management plan designed to protect water quality.

The compensatory mitigation envisioned for the project shall consist of two major efforts. First shall be the creation of seasonal wetland habitat in the uplands adjacent to the preserved marsh, and second shall be the creation and enhancement of bank habitat within the project area.

Creation (Compensatory Mitigation)

Seasonal Wetland/Emergent Marsh/Open Water Habitat

Prior to the issuance of the 180th building permit, unless an alternative time frame is specified in the necessary resource agency permits, the project shall:

- a. Create a minimum of approximately 5.29 acres of seasonal wetland and 0.30 acre of marsh within the 36.83-acre open space preserve area (Parcel "C"). Specifically, the creation of the seasonal wetland will occur in the 12.58-acre upland area in the northwest corner of the site. The expansion of the marsh shall be accomplished either on the eastern side of the existing marsh on the new peninsula created by the opening of the northern bay or along the western side of the existing marsh. This represents a 1:1 mitigation ratio (created wetlands to impacted wetlands).
- b. Soil borings shall be taken prior to the construction of the seasonal wetlands within the open space preserve to verify the suitability of the proposed wetland soils (e.g. cobbly soils or old alluvium would not be suitable soils).
- c. Ground water depths shall also be identified within the open space preserve.
- d. The locations of the created wetlands shall be selected based on the existing topography within the uplands, soil composition, and ground water depths, and the created seasonal wetlands shall be excavated to a depth necessary to accumulate seasonal (winter) groundwater and/or to any clay layer that will perch rainfall.
- e. The upper 6 inches of top soil shall be scalped from the seasonal wetlands to be impacted and will be placed in the created wetlands for seed source. These topsoils would contain a seed bank of the impacted pool plant species which would germinate with fall/winter hydration of the re- created pools.
- f. The created wetlands shall be very slightly over excavated to accommodate the addition of topsoil.
- g. This mitigation measure may be substituted by implementing another wetland compensation plan that is approved for the project by both the Corps and the RWQCB.

Bank Habitat

The applicant shall mitigate for the loss of approximately 9,720 lineal feet of bank habitat by: (1) enhancement of 9,157 lineal feet of that existing low and moderate low quality bank habitat, both onsite and offsite, to high quality bank habitat (shaded riverine aquatic habitat and shallow water habitat) on Pantages Island, East Contra Costa Irrigation District(ECCID) property on the south side of the ECCID Dredge

Cut/Channel, Old Kellogg Creek, and Kellogg Creek between Newport Drive and State Route 4; and (2) creation of 1,903 lineal feet of moderate quality bank habitat (shallow sloping or level bench to MHW with riparian trees and grasses, rip-rap with willows between MHW and MLW) on the excavated portion of Pantages Island, and the northerly side of the North Cove to the end of Kellogg Creek. Bank habitat mitigation totals approximately 11,060 lineal feet, an increase of 1,340 lineal feet and an overall substantial improvement in the quality of the bank habitat.

Open Space Preservation

The preserved and created seasonal wetlands and marsh habitat shall be located within a 36.83-acre permanently preserved area (Open Space Parcel "C"). The marsh habitat on Pantages Island (Open Space Parcel "D," 6.39 acres more or less) shall be permanently preserved through conservation covenants/easements. It is envisioned that ownership of the two open space preserve areas will be transferred to the Town of Discovery Bay Community Services District (TDBCSD), prior to the recordation of the Final Map, for preservation in perpetuity, or other public agency approved by CDD. The TDBCSD would also function as the Preserve Manager and conduct the long-term monitoring and maintenance of the preserve areas in perpetuity.

In addition, the approximately 11,060 linear feet of enhanced and created bank habitat shall be preserved in perpetuity. The lineal footage within the project site will be included as part of Water Parcel "F," as modified to include that creek bank and the shoring walls. It is envisioned that Parcel "F" as modified and the enhanced bank habitat on ECCID property and Pantages Island will be transferred to Reclamation District 800 (RD 800). RD 800 already owns the mitigation Kellogg Creek banks from Newport Drive to State Route 4. RD 800 will own and be responsible by conservation covenants/easements to monitor and maintain these bank habitats in perpetuity. It is further envisioned that a maintenance and improvement control easement will be recorded in favor of RD 800 over the slope between the shoring walls and the back retaining wall (and the retaining wall itself). See the Waterfront Lots Sea Level Rise Plate 7.

Funding for maintenance of the permanently preserved open space conservation area shall be provided through annual assessments of

homeowners in Pantages Bays that are secured through a TDBCSD landscape and lighting district or alternative binding, permanent agreement completed prior to filing the Final Map. With respect to the creek bank conservation areas owned by RD 800, the shoring walls and the slope/retaining wall easement, the assessment will be created by a Proposition 218 vote undertaken prior to filing the Final Map.

A 5-year monitoring program shall be established to monitor the progress of the wetland mitigation toward an established goal. At the end of each monitoring year, an annual report will be submitted by the applicant to the Corps, RWQCB and Contra Costa County. This report will document the hydrological and vegetative condition of the mitigation wetlands, and will recommend remedial measures as necessary to correct deficiencies. The applicant shall submit proof, in written form, to CDD prior to filing of the Final Map that the applicant is responsible for the 5- year monitoring as it may be extended, including its cost. (Mitigation Measure BIO-12)

Cultural

24. ____ Pursuant to CEQA Guidelines Section 15064.5, in the event that any prehistoric, historic, archaeological or paleontological resources are discovered during ground-disturbing activities, all work within 100 feet of the resources shall be halted and the applicant shall consult with the County and a qualified professional (historian, archaeologist and/or paleontologist as determined appropriate and approved by the County) to assess the significance of the find.

If any find is determined to be significant, representatives of the County and the consulting professional shall determine the appropriate avoidance measures or other appropriate mitigation.

In considering any suggested mitigation proposed by the consulting professional to mitigate impacts to cultural resources, the County shall determine whether avoidance is feasible in light of factors such as the nature of the find, project design, costs, and other considerations.

If avoidance is infeasible, other appropriate measures, such as data recovery, shall be instituted. Work may proceed on other parts of the project site while mitigation for cultural resources is carried out. All significant cultural materials recovered shall, at the discretion of the consulting professional, be subject to scientific analysis, professional

museum curation, and documentation according to current professional standards.

At the County's discretion, all work performed by the consulting professional shall be paid for by the applicant and at the County's discretion, the professional may work under contract with the County.

(Mitigation Measure CUL-1)

25. ____ In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:
1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and
 - If the coroner determines the remains to be Native American:
 - The coroner shall contact the Native American Heritage Commission within 24 hours;
 - The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American;
 - The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98; or
 2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:
 - The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the Commission;
 - The identified descendant fails to make a recommendation; or

The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. **(Mitigation Measure CUL-4)**

Geology

26. ____ The project applicant shall design structures and foundations to withstand expected seismic sources in accordance with the current version of the California Building Code, as adopted by the County. **(Mitigation Measure GEO-1a)**
27. ____ At least 60 days prior to filing of the Final Map the applicant shall submit updated improvement plans for the project for review by the County's Peer Review Geologist and review and approval by CDD. For the purposes of geologic review, the plans shall provide detailed information on the bank stabilization wall system being proposed along the waterfront residential lots. **(Mitigation Measure GEO-1b)**
28. ____ Prior to the issuance of building permits, the applicant shall submit an updated geology, soils and foundation report meeting the requirements of the Subdivision Ordinance, Section 94-4.420 for review by the Peer Review Geologist and review and approval of CDD. The report shall address the specific approach to grading and development indicated by the final subdivision map and improvement plans, and shall provide technical data and engineering analysis that addresses the stability of the residential lots. The project geotechnical engineer shall use the following performance criteria:
- a) Factor of Safety of a minimum of 1.5 for static conditions,
 - b) Factor of Safety of 1.25 for pseudo-static conditions, and which takes into account the potential for a seismic source in the site vicinity (Great Valley seismic zone) and
 - c) Factor of Safety of 1.3 for rapid draw down. **(Mitigation Measure GEO-1c)**
29. ____ During the construction of subdivision improvements, the project geotechnical engineer shall provide observation and testing services and issue a grading/shoring wall completion report. The report shall provide

documentation on the bank stabilization wall depths and appropriate testing of fill compaction to determine the effectiveness of the bank stabilization measures in preventing lateral spreading failures toward the Kellogg Creek channel. **(Mitigation Measure GEO-1d)**

30. ____ At least 60 days prior to filing of the Final Map the applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the Building Inspection Division of the Department of Conservation and Development. The SWPPP shall be consistent with the terms of the State Construction Storm Water General Permit, the manual of Standards for Erosion and Sedimentation Control Measures by the Association of Bay Area Governments, policies and recommendations of the County and the RWQCB. The County has SWPPP resources available on its website: <http://www.co.contra-costa.ca.us/depart/pw/design/swppp/>.

With regard to long-term control of sedimentation and protection of water quality, a Storm Water Control Plan (SWCP) C.3 Report (dk Consulting 2006) was prepared for the project and submitted to the County's Public Works Department in order to comply with County water quality requirements. Engineered linear bioretention facilities (dry swales) are the selected storm water runoff treatment for this project, which are area based storm water treatment facilities. **(Mitigation Measure GEO-2)**

31. ____ At least 30 days prior to filing the Final Map, the project applicant shall submit a plan for monitoring corrosivity of pads and road beds. The plan shall demonstrate how the results of the study will guide design of concrete and ferrous materials that are in contact with the ground. **(Mitigation Measure GEO-3)**

Deed Acknowledgments

32. ____ Concurrent with recordation of the Final Map, the applicant shall record a statement to run with the deeds to the property acknowledging the approved geology, soil, and foundation report by title, author (firm), and date, calling attention to approved recommendations, and noting that the report is available from the seller.

Global Climate Change

33. ____ The County shall ensure that the project applicant(s) employs green building techniques in the design of proposed structures within the Pantages Bays project. Specifically, structures shall conform at a minimum

to the California Green Building Code or equivalent green building standards. **(Mitigation Measure Cum-GCC-1a)**

34. ____ The applicant shall incorporate the following measures within the proposed project:

- a) Project landscaping shall include water-efficient native and adaptive plants in combination with high-efficiency irrigation equipment;
- b) Recycled content shall be included in project building materials, including the use of pre-consumer fly-ash in the concrete for project walkways, driveways, roadways, and non-plant landscape elements;
- c) To protect regional and indoor air quality, interior paints, carpets, adhesives, sealants, and coatings selected for the project shall have a low concentration of volatile organic chemicals (VOCs);
- d) The heating, ventilation, and air conditions (HVAC) systems within each single family home shall use environmentally responsible refrigerants (i.e. non CFC-based refrigerants);
- e) Indoor ventilation systems in each home shall include high-efficiency systems to provide enhanced indoor air quality as potential pollutants would be ventilated through the building at a faster rate;
- f) The project shall install high efficiency restroom fixtures including low-flow or dual flush toilets to reduce potable water use;
- g) Wood from sustainably harvested forests (as certified by the Forest Stewardship Council) shall be used in wood materials for the single family homes, including flooring, cabinets, trim, shelving, doors, and countertops; and
- h) The project shall install water and energy efficient appliances and lighting fixtures, including *EnergyStar* dishwashing and refrigeration equipment.
- i) In each garage an electric outlet shall be installed and dedicated for use in recharging electric vehicles. **(Mitigation Measure CUM GCC-1b)**

Hazardous Materials

35. ____ Prior to issuance of grading permits, soil samples shall be collected from the paint disposal area and analyzed for metals, petroleum hydrocarbons, and volatile organic compounds. Soil samples shall be compared to the Environmental Screening Levels (ESLs) as determined by the Central Valley Regional Water Quality Control Board. If soil samples exceed ESLs, the soil

shall be investigated and remediated under the oversight of the Contra Costa Environmental Health Division (CCEHD). **(Mitigation Measure HAZ-1a)**

The project site shall be inspected by an environmental professional, appointed by the County, during demolition and preliminary grading activities. In the event that previously unidentified contaminants are discovered, the contamination shall be reported to CCEHD and investigated and remediated under the oversight of CCEHD in accordance with existing regulatory programs. **(Mitigation Measure HAZ -1b)**

36. ____ Prior to the issuance of a demolition permit, the applicant shall submit proof to the County that all asbestos-containing materials have been removed at the existing residence located to the south of Point of Timber Road, in compliance with state regulations. **(Mitigation Measure HAZ-2a)**

37. ____ Prior to the issuance of a demolition permit, the applicant shall submit proof to the County that all lead-based paint (LBP) has been removed at each of the existing former residences on the project site, in compliance with state regulations. **(Mitigation Measure HAZ-2b)**

Hydrology

38. ____ During construction a qualified SWPPP Practitioner (QSP) on the project team shall perform, at minimum, weekly monitoring of the water quality in Kellogg Creek adjacent to the turbidity barriers to determine whether adjustments to their position or depth are required. Monitoring shall be more frequent, as needed, to accurately assess water quality degradation. **(Mitigation Measure Hyd-1a)**

39. ____ At least 60 days prior to filing of the Final Map the applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the Building Inspection Division of the Department of Conservation and Development. The SWPPP shall be consistent with the terms of the State Construction Storm Water General Permit, the manual of Standards for Erosion and Sedimentation Control Measures by the Association of Bay Area Governments, policies and recommendations of the County and the RWQCB. The County has SWPPP resources available on its website:

<http://www.co.contra-cost.ca.us/depart/pw/design/swppp/>. Additionally, the Title 10 Ordinance (1010) of the Contra Costa County Code of Ordinances requires the project sponsor to obtain a permit for drainage activities for creek improvements to Kellogg Creek and Old Kellogg Creek.
(Mitigation Measure HYD-1b)

40. ____ To prevent pollution of receiving waters due to equipment fueling, storage, and maintenance, the contractor shall develop a detailed set of guidelines to follow. Final plan notes, and contractor bid documents shall include the following specifications:
1. Space in the staging area shall be reserved for storage of maintenance materials, and refueling purposes.
 2. The staging area shall be graded to prevent any runoff so that any contaminants such as spilled fuel, oil, or grease will not reach the receiving waters.

If heavy-duty construction machinery is left overnight in an area that is not protected from direct runoff to receiving waters, drip pans shall be placed beneath the engine block and hydraulic systems. **(Mitigation Measure Hyd-1c)**

41. ____ Prior to the issuance of grading permits, the project applicant shall coordinate with Contra Costa Environmental Health Division (CCEHD) to identify and survey the existing and abandoned groundwater wells on the project site.
- The identified groundwater wells shall be properly decommissioned and/or retrofitted under permit from CCEHD. CCEHD shall inspect the decommissioned wells for approval. **(Mitigation Measure Hyd-2)**

42. ____ Improvement plans, including final grading plans shall include, at minimum, a finished floor elevation of residential units at 14.1 feet.
(Mitigation Measure Hyd-3a)

43. ____ Improvement plans, including final grading plans shall include, at minimum, a finished street level elevation of 12.1 feet including the EVAs.
(Mitigation Measure Hyd-3b)

Noise and Vibration

44. ____ All noise generating construction activities shall be limited to the hours of 7:30 AM to 5:30 PM, Monday through Friday, and shall be prohibited on

state and federal holidays on the calendar dates that these holidays are observed by the state or federal government as listed below:

- New Year's Day (State and Federal)
- Birthday of Martin Luther King, Jr. (State and Federal)
- Washington's Birthday/Presidents' Day (State and Federal)
- Lincoln's Birthday (State)
- Cesar Chavez Day (State)
- Memorial Day (State and Federal)
- Independence Day (State and Federal)
- Labor Day (State and Federal)
- Columbus Day (State and Federal)
- Veterans Day (State and Federal)
- Thanksgiving Day (State and Federal)
- Day after Thanksgiving (State)
- Christmas Day (State and Federal)

For specific details on the actual day the state and federal holidays occur, please visit the following websites:

Federal holidays:

http://www.opm.gov/Operating_Status_Schedules/fedhol/2011.asp

California holidays: <http://www.ftb.ca.gov/aboutFTB/holidays.shtml>

At least 10 days prior to the issuance of grading permits signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a contact number for the on-site complaint and enforcement manager in the event of problems.

An on-site complaint and enforcement manager shall be available to respond to and track complaints. The manager will be responsible for responding to any complaints regarding construction noise and for coordinating with the adjacent land uses. The manager will determine the cause of any complaints and coordinate with the construction team to implement effective measures (considered technically and economically feasible) warranted correcting the problem. The telephone number of the coordinator shall be posted at the construction site and provided to neighbors in a notification letter. The manager will be trained to use a

sound level meter and should be available during all construction hours to respond to complaints.

At least one week prior to commencement of grading or construction activities for each major phase of construction the applicant shall prepare a notice that grading or construction work will commence. The notice shall be posted at the site and mailed to all the owners and occupants of property within 300 feet of the exterior boundary of the project site as shown on the latest equalized assessment roll. The notice shall include a list of contact persons with name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall be kept current at all times and shall consist of persons with authority to indicate and implement corrective action in their area of responsibility. The names of individuals responsible for noise and litter control, tree protection, construction traffic and vehicles, erosion control, and the 24-hour emergency number, shall be expressly identified in the notice. The notice shall be re-issued with each phase of the project and a copy shall be mailed to CDD. **(Mitigation Measure NOI-1a)**

The project applicant shall prepare a detailed construction noise mitigation plan for review and approval by the CDD at least 30 days prior to the issuance of grading permits. The goal of the plan is to provide a framework for notifying neighbors of the extent of the noise that can be expected during particular phases of the project grading, what mitigation will be applied, and who to call if there are noise-related complaints. Submission of this construction noise mitigation plan shall be required as part the grading permit application.

The construction noise mitigation plan shall use the California Model Community Noise Ordinance limits of 75 dBA for mobile equipment and 60dBA for stationary equipment as the primary noise mitigation goals.

Information in the plan shall include but not be limited to the following:

- Construction schedule showing dates and location of activities.
- List of equipment to be used during each major construction phase and sound level estimates for each phase.
- Height, length, and location of any recommended noise barriers. The barriers can be constructed out of wood or other materials as long as they have a minimum surface weight of approximately 2.5 pounds per

square foot. Possible materials include 1-1/8-inch-thick plywood or fully overlapping 1x redwood boards (1-1/2-inch-thick total). The barriers would likely be 6 to 8 feet tall but this would be refined as part of the construction noise control plan. Issues to consider when determining the ultimate height, length, and location of the barriers are the actual construction practices, including equipment to be used and the location and duration of noisier activities. The topography will also need to be considered in the final determination of barrier heights and effectiveness.

- Truck routing to minimize noise at existing noise sensitive locations. The project applicant shall limit trucks to routes, hours, and days of the week set by Contra Costa County.
- Locate stationary equipment as far from residents as is practicable and/or enclose noise sources.
- The project applicant shall require the contractor to use electric or hydraulically powered rather than diesel or pneumatically powered equipment and construction tools as feasible.
- Provide intake silencers and "resident-type" exhaust mufflers on vehicles and equipment and/or acoustically shroud or shield impact tools as feasible.
- The method for construction of the shoring walls will be sheet pile shoring wall that will use a variable moment driver/hammer for installation. **(Mitigation Measure NOI-1b)**

45. ____ At least 14 days prior to the issuance of grading permits the project applicant shall construct temporary noise barriers along the western property line neighboring the existing residences at the Ravenswood and Discovery Bay West subdivisions. Noise barriers shall provide noise reductions in the range of 5 to 10 dBA. **(Mitigation Measure NOI-1c)**

Parks and Recreation

46. ____ Concurrent with the filing of the Final Map the project applicant shall on the face page of the Final Map (and/or by other recorded instrument reviewed and approved by CDD) offer to dedicate to the public access by pedestrians and bicyclists to approximately 1.7 acres of public trails composed of the following: an 8-foot public trail with 1' shoulders connecting from the end of "B" Street to the end of "A" Court within the preserved open space; a 20-foot EVA with shoulders and at least eight feet paved off center on the EVA from the end of "A" Court to the marine

patrol substation; the passive recreation location at the end of the trail beyond the marine patrol substation for ingress, egress and use by pedestrians and bicyclists; and the eight-foot sidewalk leading from Point of Timber Road to the public trails through the preserved open space. The right of public access recorded documentation shall confirm: (i) dogs not on leash are not permitted on the EVA/trails due to proximity to creek banks, emergent marsh and seasonal wetlands (includes dogs accompanying both members of the public and Pantages Bays homeowners); (ii) dogs on leash are allowed unless prohibited per permits issued by the Army Corp of Engineers and/or other resource agencies) (iii) that all pedestrians and bicyclists (and permitted dogs) must stay on EVA/trails in open space parcel, for purposes of public safety and environmental protection of the nearby emergent marsh, created seasonal wetlands, and created/enhanced high and moderate creek bank habitat; (iv) that for the same reasons no fishing or swimming is allowed from those creek bank locations; and (v) that public access is limited from dawn to dusk. The recorded documentation of the right of public access to the EVA/trails shall confirm the foregoing limitations on that use.

The applicant shall provide a water fountain at the end of the trail beyond the marine patrol substation for public use (water supply will be from the metered hook-up for the Sheriff's marine patrol substation). Tables and seating near the open water at the end of the trail beyond the marine patrol substation, kiosks and signage that is historical (related to this part of the Delta and Point of Timber) and educational (related to the environment, its protection, and limits on trails use in open space as described above), and benches along the trails, all in a number, design and content subject to review and approval of CDD. The public trails through the open space area also serve as an EVA and must comply with Fire Department requirements and be completed by the issuance of the 150th building permit.

Signage shall be provided at the two project entries for public pedestrians and bicyclists (Point of Timber and Wilde Drive) and the trail heads at the end of "B" Street and "A" Court, which confirms public pedestrian and bicyclist access to the EVA/trails and the sidewalks and roads within Pantages Bays. The signage shall also specify the limitations on such use (e.g., if dogs are permitted they must be on leash on EVA/public trails; dogs must be on leash on roads and sidewalks; pedestrians and bicyclists must stay on trails in open space; public pedestrian and bicyclist access

permitted only from dawn to dusk). The signs and their content are subject to review and approval of CDD.

In combination with the dedication of the public trails the project shall pay a park dedication fee of \$1,351 per dwelling unit upon issuance of building permits.(The park dedication fee of \$1,351 was the fee in effect at the time the application was deemed complete on November 11, 2006).

Concurrent with the filing of the Final Map the applicant shall on the face page of the Final Map (and/or other suitable recorded instrument reviewed and approved by CDD) offer to dedicate to the public access to the privately owned roadways and sidewalks within Pantages Bays for ingress, egress and use by pedestrians and bicyclists from dawn to dusk. The recorded documentation of the right of public access to project roads and sidewalks shall confirm that it does not include public vehicular use (unless by invited guest), and that dogs are permitted with the public only if on leash.

It is anticipated that these offers of dedication of public access for pedestrians and bicyclists will be accepted on behalf of the public by the County (and/or by another public agency approved by CDD) prior to or concurrent with recordation of the Final Map. These rights of public access and the right of enforcement by members of the public and the County (or by another public agency) shall be confirmed in the CC&Rs and individual deed disclosures. **(Mitigation Measure PS-1)**

- 46A. __ __ Improvement plans shall include two 90-degree parking stalls located in each of the "A" Court and "B" Street, and designated for handicap accessibility in order to provide for vehicular access for the disabled adjacent to the public trails within the project open space. Required turning radius in the cul-de-sacs for fire trucks shall be maintained and grading to accommodate the stalls shall stay outside the emergent marsh. The public agency responsible for maintenance of the public trails within Open Space Parcel "C" (likely the Town of Discovery Bay CSD) shall maintain the ADA parking stalls, and make available the necessary means of electronic access through the vehicular gate at the end of Point of Timber Road to any disabled member of the public making that request for the purpose of securing direct vehicular access to the open space public trails. The same method to open the gate for project residents and/or public agencies shall be made available to disabled members of

the public who request it for that purpose. These requirements shall be included in the recorded public trail easement. Signage at the project entry shall provide notice as to the location of the ADA parking stalls and the public agency responsibility with respect to vehicular access through the gate requested by disabled members of the public. The CC&Rs for the homeowners association shall confirm this right of access through the vehicular gate for disabled members of the public who request it and the requirements with respect to project entry signage and for permanent retention of the ADA parking stalls at the cul-de-sacs. The final location of the four parking stalls, and the form and text of the applicable signage, public trail easement and CC&Rs with respect to this condition, shall be approved by CDD prior to filing of the Final Map.

Public Utilities (Water & Sewer)

47. ____ Prior to filing of the Final Map the applicant shall provide documentation to CDD (i.e., Can & Will Serve letter), demonstrating to the satisfaction of CDD that the TDBCSD has identified and secured sufficient financing for the construction of any required improvements outlined in the Water MP to ensure sufficient capacity exists to serve the project.

Prior to the issuance of the first occupancy permit, the applicant shall provide documentation to CDD that said improvements needed to serve the project are constructed and operational. **(Mitigation Measure UTIL-1)**

48. ____ Prior to filing of the Final Map the applicant shall provide documentation to CDD (i.e., Can & Will Serve letter), demonstrating to the satisfaction of CDD that TDBCSD has identified and secured sufficient funding for the construction of any capacity or treatment improvements outlined in the Wastewater MP and necessary so that serving the project does not exceed the requirements of RWQCB.

Prior to the issuance of the first occupancy permit, the applicant shall provide documentation to CDD that said improvements needed to serve the project are constructed and operational, and that any source control measures are being implemented consistent with the requirements of RWQCB. **(Mitigation Measure UTIL-2)**

Street Names

49. ____ At least 30 days prior to filing the Final Map, proposed street names (public and private) shall be submitted for review by CDD, Graphics Section (Phone #674-7810). Alternate street names should be submitted. The Final Map cannot be certified by CDD without the approved street names. Street names of historic significance to this part of the Delta and Point of Timber will be used if available, subject to review and approval of CDD.

Transportation

50. ____ Mitigation of the unacceptable traffic conditions at the SR4/Byron Highway (south) can be achieved by adding a second northbound to westbound left-turn lane from Byron. This improvement is included in the 2013 East County Regional Area of Benefit (ECRAOB) Transportation Mitigation Fee Update project list. The project applicant shall pay the required AOB fee prior issuance of building permits. **(Mitigation Measure TRA-1)**

51. ____ The project applicant shall pay regional roadway fees to the East Contra Costa Regional Fee and Financing Authority (ECCRFFA) fee program to upgrade existing roadways. Implementation of Mitigation Measure TRA -2 would require the project applicant to pay regional roadway fees to upgrade existing roadways and/or construct new facilities in the project area upon issuance of building permits. **(Mitigation Measure TRA-2)**

52. ____ Mitigation of the unacceptable traffic conditions at the Byer Road/Byron Highway intersection can be achieved by installing a traffic signal and a southbound left turn lane. This improvement is not identified in any funding program.

If this improvement is not included in a County fee program at the time of project approvals, the project applicant shall pay its fair share towards the cost of this improvement to the County's Road Trust account (Fund #8192) prior to the issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in a fee program. As indicated in Table 4.16-15 of the EIR, the project applicant would be required to contribute 12 percent of the total costs for this improvement upon issuance of building permits. To determine the cost of the improvement

the applicant shall prepare an engineer's estimate of that cost for review and approval of the Public Works Department prior issuance of building permits. **(Mitigation Measure CUM TRA-1)**

53. ____ Mitigation of the unacceptable traffic conditions at the Holway Drive/Byron Highway and Camino Diablo Road/Byron Highway intersections can be achieved by installing a traffic signal at the Camino Diablo Road/Byron Highway and providing left-turn pockets on all approaches. Traffic turning left from eastbound Camino Diablo Road to northbound Holway Drive and left again from Holway Drive to Byron Highway would instead turn left at the signalized Camino Diablo Road/Byron Highway intersection. This mitigation would require modifications to the adjacent railroad crossing west of the intersection to provide the required left turn pocket on the eastbound approach. This improvement is -included in the 2013 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required AOB fee upon issuance of building permits (Mitigation Measure CUM TRA-2.

55. ____ Mitigation of the unacceptable traffic conditions at the Sellers Avenue/Balfour Road intersection can be achieved by installing a traffic signal and providing left turn lanes at all four intersection approaches. This improvement is currently included in the 2013 ECRAOB AOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required AOB fee upon issuance of building permits. **(Mitigation Measure CUM TRA-3)**

56. ____ Mitigation of the unacceptable traffic conditions at the Point of Timber Road/Byron Highway intersection can be achieved by installing a traffic signal. This improvement is currently included in the 2013 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required AOB fee upon issuance of building permits. (Mitigation Measure CUM TRA-4)

57. ____ Mitigation of the unacceptable traffic conditions at the Point of Timber Road/Bixler Road intersection can be achieved by installing a traffic signal and adding left turn lanes at all four intersection approaches. This improvement is not identified in any funding program.

If this improvement is not included in a County fee program at the time of project approvals, the project applicant shall pay its fair share towards the cost of this improvement to the County's Road Trust account (Fund #8192) prior to the issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in a fee program. As indicated in Table 4.16-15 of the EIR, the project applicant would be required to contribute between 30 and 39 percent of the total costs for this improvement upon issuance of building permits. To determine the cost of the improvement the applicant shall prepare an engineer's estimate of that cost for review and approval of the Public Works Department prior issuance of building permits. **(Mitigation Measure CUM TRA-5)**

58. ____ Mitigation of the unacceptable traffic conditions at the Marsh Creek Road/Sellers Avenue intersection can be achieved by installing a traffic signal. This improvement is currently included in the 2013 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required AOB fee upon issuance of building permits. (Mitigation Measure CUM TRA-6)
59. ____ Mitigation of the unacceptable traffic conditions at the Marsh Creek Road/Bixler Road intersection can be achieved by installing a traffic signal. This improvement is not identified in any funding program. If this improvement is not included in a County fee program at the time of project approvals, the project applicant shall pay its fair share towards the cost of this improvement to the County's Road Trust account (Fund #8192) prior to the issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in a fee program. As indicated in Table 4.16-15 of the EIR, the project applicant would be required to contribute between 10 and 11 percent of the total costs for this improvement upon issuance of building permits. To determine the cost of the improvement the applicant shall prepare an engineer's estimate of that cost for review and approval of the Public Works Department prior issuance of building permits. **(Mitigation Measure CUM TRA-7)**
60. ____ Mitigation of the unacceptable traffic conditions at the SR4/Byron Highway (south) intersection can be achieved by adding a second left-turn

lane on the Byron Highway approach and a second through lane on the southeast-bound SR4 approach.

The second left-turn lane on the Byron Highway approach improvement is currently identified in the 2007 Contra Costa County Capital Road Improvement & Preservation Program, although funding has not been identified. The second through lane on the southeast-bound SR4 approach is not identified in any funding program.

If this improvement is not included in a County fee program at the time of project approvals, the project applicant shall pay its fair share towards the cost of this improvement to the County's Road Trust account (Fund #8192) prior to the issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in a fee program. As indicated in Table 4.16-17 of the EIR, the project applicant would be required to contribute between 9 and 11 percent of the total costs for this improvement upon issuance of building permits. To determine the cost of the improvement the applicant shall prepare an engineer's estimate of that cost for review and approval of the Public Works Department prior issuance of building permits. **(Mitigation Measure CUM TRA-8)**

61. ____ Mitigation of the unacceptable traffic conditions at the SR4/Newport Drive intersection can be achieved by installing a traffic signal. This improvement is not identified in any funding program.

If this improvement is not included in a County fee program at the time of project approvals, the project applicant shall pay its fair share towards the cost of this improvement to the County's Road Trust account (Fund #8192) prior to the issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in a fee program. As indicated in Table 4.16-15 of the EIR, the project applicant would be required to contribute between 4 and 6 percent of the total costs for this improvement upon issuance of building permits. To determine the cost of the improvement the applicant shall prepare an engineer's estimate of that cost for review and approval of the Public Works Department prior issuance of building permits. **(Mitigation Measure CUM TRA-9)**

62. ____ Mitigation of the unacceptable traffic conditions at the Camino Diablo Road/Vasco Road intersection can be achieved by adding a northbound right turn lane. This improvement is currently included as one of several improvements intersection in the 2013 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required AOB fee upon issuance of building permits. (Mitigation Measure CUM TRA-10)
63. ____ The project applicant shall pay regional roadway fees to the East Contra Costa Regional Fee and Financing Authority (ECCRFFA) fee program to upgrade existing roadways upon issuance of building permits. **(Mitigation Measure CUM TRA-11)**

Visual/Lighting

64. ____ At least 30 days prior to the issuance of building permits the project applicant shall submit a lighting plan for the review and approval by CDD. Exterior lighting shall be low mounted, downward casting, shielded, and shall utilize motion detection systems where applicable. In general, the light footprint of individual units shall not extend beyond the periphery of each property. Implementation of exterior lighting fixtures on all buildings shall also comply with the standard California Building Code (Title 24, Building Energy Efficiency Standards) to reduce the lateral spreading of light to surrounding uses. **(Mitigation Measure VIS-1)**

Architectural Design of Non-Waterfront Production Homes Models / Fencing Plan

65. ____ At least 30 days prior to the issuance of building permits the applicant shall submit, for review and approval of CDD, floor plans and elevations (showing building height) for the models of the non-waterfront production homes. This condition does not apply to the 100' wide by 110' deep minimum size non-waterfront homes. At least 30 days prior to issuance of building permits the applicant shall also submit for review and approval of CDD a fencing plan for the whole of the Pantages Bays project.

Homeowners Association

66. ____ Prior to recordation of Final Map a homeowners association shall be formed for the ownership and maintenance (through homeowners assessments) of all common areas including private streets and common

landscaping except as specified in these Conditions of Approval and/or Mitigation Measures. Examples of exceptions to ownership and maintenance by the homeowners association include Open Space Parcel "C," Open Space Parcel "D," Water Parcel "F," and the Public Trails/EVA easement area. Homeowners will be financially responsible for the maintenance of those parcels through other assessment mechanisms as described in Condition 69 below. Marine Patrol Substation Parcel "I" will be owned and, through the Office of the Sheriff, maintained by the County at its cost.

Conditions, Covenants and Restrictions (CC&Rs)

67. ____ At least 60 days prior to filing the Final Map the applicant shall submit, for CDD review and approval, the CC&Rs for the Pantages Bays project. Prior to submitting the CC&Rs to CDD for review and approval the applicant shall work with the Lakeshore Home Owners Association for review and comment of the CC&Rs. The CC&Rs shall include information for the future property owners that the trails to be constructed from the entrance to the Pantages Bays through the Open Space to near the water's edge at the northeast corner of the site, as well as the sidewalks and streets within Pantages Bays, shall be available for public pedestrian and bicycle use from dawn to dusk, subject to the limitations described in Condition 46 applicable to all trail users (e.g., dogs on leash are allowed on EVA/trails unless prohibited in permits from resource agencies). The CC&Rs shall also confirm that rights of access to that effect are included on the recorded Final Map (and/or other suitable recorded instrument reviewed and approved by CDD) and accepted on behalf of the public by the County (and/or other public agency approved by CDD such as the TDBCSD).

The Police, Fire District, emergency medical technicians (EMTs), RD 800, TDBCSD, and other public agencies (e.g., Mosquito Abatement District) right of ingress, egress and use of all roads (includes all of Parcel "A") and EVAs within the Pantages Bays project shall be provided for and confirmed in the CC&Rs. The offers of dedication to the public shall so provide, and a note to that effect shall be included on the face page of the Final Map (and/or other suitable recorded instrument reviewed and approved by CDD), as provided for in Condition 76 below.

The CC&Rs shall confirm that maintenance of the streets, sidewalks, landscaping, creek banks, shoring walls, open space, EVA/public trails, the passive recreation location at the end of the public trails, and the typical

police service district assessment shall be paid for by Pantages Bays homeowners through assessments (for example, TDBCSD landscaping and lighting district assessments, RD 800 tax bill assessments on waterfront residential lots, police service district tax bill assessment, homeowners association assessments).

The CC & Rs shall confirm that each homeowner is responsible for maintenance and repair of the back retaining wall on the waterfront lots and the slope between that wall and the shoring wall. They shall further confirm that any storm water drainage improvements associated with the slope, retaining wall and shoring wall shall be the responsibility of the homeowners association. The CC & Rs shall further confirm that RD 800 will have an easement over the slopes and retaining walls to enforce these obligations.

The CC&Rs shall include the Pantages Bays Design Standards described below in Conditions 76 and 77. The CC&Rs shall confirm they are enforceable in all respects by CDD, and that CDD must confirm compliance with them prior to issuance of a building permit for the construction of a new home and accessory structures, or subsequent alterations. There is no requirement that the CC&Rs include design review by the homeowners association.

There shall be a recorded deed disclosure for each of the approved lots confirming the foregoing as well, with the form and content reviewed and approved by CDD. The recorded deed disclosure shall include reference to the Design Standards and the waterfront lots to which the view corridor requirement applies.

Construction and Demolition Debris

68. ____ At least 30 days prior to the issuance of the building and/or demolition permit(s), the developer shall submit a "Debris Recovery Plan" demonstrating how they intend to recycle, reuse or salvage building materials and other debris generating from the demolition of existing building and/or the construction of new buildings. At least 30 days prior to the final inspection of the first residential unit not including models, the developer shall submit a completed "Debris Recovery Report" documenting actual debris recovery efforts including the quantities of recovered and landfilled materials) that resulted from the project.

Ownership, Maintenance and Financial Responsibility for Project Parcels

69. ____ The non-residential parcels below shall be recorded on the Final Map. These parcels shall be owned and maintained as provided below. The financial responsibility for that maintenance will likely be provided as described below. Necessary easements related the parcels are described below.

A. Parcel "A" (19 acres, more or less) includes the private roadways, sidewalks, bioswales, storm drainage facilities, street trees, primary entry gate and features at Point of Timber, and the secondary EVA and pedestrian/bicyclist entry at Wilde Drive. Ownership, maintenance, and maintenance funding responsibility: Pantages Bays homeowners association with funding from homeowners assessments. The Wilde Drive EVA and pedestrian/bicyclist entry shall be offered for dedication to the County, with maintenance and funding responsibility the same as for the private streets by the HOA.

B. Parcels "B," "G," "H," and "J" at the Point of Timber entry are for landscape purposes. Ownership, maintenance, and maintenance funding responsibility: Pantages Bays homeowners association with funding from homeowners assessments.

C. Parcel "E" is the public turnaround at the project entry at the end of public Point of Timber Road. Ownership, maintenance, and maintenance funding responsibility: Contra Costa County following acceptance of the turnaround as part of the public roadway.

D. Parcel "C" is open space (37 acres, more or less), which includes the recreated seasonal wetlands and the preserved emergent marsh. Parcel "D" is also open space (6 acres, more or less) on Pantages Island, which includes preserved emergent marsh. Ownership (subject to conservation covenants/easements) and maintenance: TDBCSD. Maintenance funding responsibility: Pantages Bays homeowners tax bill assessments likely through a landscaping and lighting district formed prior to recording Final Map. An alternative to TDBCSD ownership and maintenance would be RD 800, with funding by Pantages Bays homeowners through a Proposition 218 assessment, and with the vote completed by RD 800 and owner and the assessments finalized prior to filing the Final Map. Another alternative, though not preferred, would be ownership (with conservation covenants/

easements) by the Pantages Bays homeowners association, with maintenance by an approved conservancy organization, and funding through the association and/or an endowment.

E. Parcel "F" as modified in the Final Map will be comprised of waterways, shoring walls and creek bank (38 acres, plus or minus; as currently shown on the tentative subdivision map the parcel only includes water). There will be a related easement for RD 800 control and enforcement of required maintenance and repairs by each homeowner (and limitations on landscape, and improvements) on the back retaining wall and the slope between that wall and the shoring wall. There will likely be a similar RD 800 enforcement easement with respect to repair and maintenance of storm drainage improvements by the homeowners association where located on a slope, retaining wall and shoring wall. A related easement on adjoining open space parcels for RD 800 access will also be required. Ownership (subject to conservation covenants/easements), related easements and maintenance: RD 800 with funding by Pantages Bays waterfront homeowners through Proposition 218 assessments, with the vote completed by RD 800 and owner and the assessments finalized prior to filing the Final Map. RD 800 will also be responsible to maintain through conservation covenants/easements the southern creek bank on ECCID land from the westerly end of the Pantages property to the Lakeshore/Lakes bridge, as well as the creek banks on Kellogg Creek between Newport Drive and State Route 4. Funding for this off-site creek bank maintenance may be the same as for Parcel "F." RD 800 and the applicant may negotiate as part of a pre-annexation agreement an alternative financing mechanism as to elements of Parcel F" and/or the off-site creek banks, subject to CDD review and approval.

F. Parcel "I" is the Sheriff's marine patrol substation parcel (0.53 acres, more or less). Following acceptance of the offer of dedication and the constructed improvements, the parcel and facilities will be owned by the County. Maintenance of the parcel and its facilities (including the boat dock) will be the responsibility of the County, at its cost through the Office of the Sheriff. The creek bank within the mooring easement for the dock will be owned and maintained by RD 800 per subsection E above.

G. The public trails will be shown as an easement within Open Space Parcel "C." See subsection D above. TDBCSD will be responsible for maintenance of the parcel and its trails, paid for by Pantages Bays homeowners likely from property tax bill assessments through a landscaping and lighting

district. Alternatively, RD 800 will accept ownership and maintenance responsibilities, with funding by Proposition 218 assessments of Pantages Bays homeowners. Alternatively though not preferred, the Pantages Bays homeowners association will own the parcel and be responsible for maintenance of the public trails, with funding provided by homeowners assessments.

LAFCO Boundary Reorganization/RD 800 and TDBCSD Annexations

70. ____ At least 30 days prior to filing of the Final Map the applicant shall provide evidence to the satisfaction of CDD that the project site is annexed, through a LAFCO boundary reorganization, to RD 800 and to TDBCSD. RD 800's annexation may be limited, for example to only the waterfront homes and Parcel "F."

Fire District Conditions

71. ____ Prior to filing of the Final Map, the applicant shall provide CDD confirmation from the Fire District that their standards have been met. For previous Fire District review and conditions see the letters from the Contra Costa County Fire Protection District (CCCYPD) to CDD (May 15, 2014, November 17, 2009; June 22, 2007; August 18, 2005; July 28, 2005; September 15, 2004), and the letter from Pantages to CCCYPD August 24, 2005.

Completion of ECCID Agreement

72. ____ Prior to filing of the Final Map, CDD shall receive confirmation from the project applicant and ECCID that their agreement has been completed, including the lot line adjustment conveying land to the Pantages owner (adjoining creek bank strip and portion of Pantages Island) and conservation easement (over land along the ECCID Dredge Cut extending from the west edge of the Pantages property to the Lakeshore/Lakes bridge), and conveying Pantages land within the dredge cut bed to ECCID.

Minimum Depth of Bays and Coves

73. ____ As constructed the bays and coves within Pantages Bays shall be at a minimum depth of 11 feet at low tide (LMW), as recommended by

Reclamation District 800 in order to provide safe navigation (e.g., prevent grounding) and avoid noxious weeds like Brazilian Waterweed from growing there.

Wilde Drive and Point of Timber Project Entries

74. ____

As set forth on the Preliminary and Final Development Plan, Sheet 5 of Pantages Bays Plan, Wilde Drive vehicular access shall be limited to emergency vehicles. Other vehicles will be restricted by bollards, or a gate. Pedestrian and bicyclist access (public and Pantages Bays residents) is permitted there. Final design of that entry as to emergency access shall be reviewed and commented on by Public Works and approved by CDD. Also as set forth on Sheet 5 and also Plate 6 of this staff report – Project Entry, public vehicular access at Point of Timber will be restricted by an electronic gate. A separated entry on each side of the road shall be provided for pedestrians and bicyclists (public and Pantages Bays residents). Final design of the entry features and landscape, as they may be modified compared to the current preliminary design (e.g., see Condition 84), shall be reviewed and approved by CDD (in addition to the Fire District and Public Works Department with respect to bollards or a gate at Wilde Drive and the gate at Point of Timber.). Any modified design at Point of Timber must include a public pedestrian/bicyclist entry with an improved trail path at least 8 feet in width on the northerly side and 5-foot sidewalk on the southerly side, with clearly identified with signage.

Access for Sheriff, Fire District, EMTs, RD 800, TDBCSD and Other Public Agencies for Use of Project Roads

75. ____

Police, Fire District, and EMTs ingress, egress and use of all roads, sidewalks and EVAs within the Pantages Bays project shall be confirmed in the CC&Rs as provided for in Condition 67 above. That right includes but is not limited to routine and other patrols by the Sheriff. The applicant shall on the face page of the Final Map and deed disclosures for each of the homes (and/or by other recorded instrument reviewed and approved by CDD) offer to dedicate to the County (and other applicable agencies) such rights of full access. The same rights of access shall be provided in the CC&RS and the Final Map note and/or other recorded instrument) to RD 800 (due to its responsibilities for waterways, creek bank habitat, shoring walls, and related slope and back retaining wall easements), as well as TDBCSD (due to its responsibilities for sewer and water facilities

within Pantages Bays and likely ownership and maintenance of Open Space Parcels "C" and "D"). Other public agencies as determined necessary by CDD will be provided the same access (for example, the Mosquito Abatement District).

Design Standards, Final Architecture, View Corridors, and Common Area Landscape Plans

76. ____ Compliance with the Pantages Bays Design Standards (Plate 5 of this staff report) shall be required in construction of new homes, or any subsequent building footprint alteration. The Design Standards include minimum setbacks for the lots, as well as height and fencing restrictions. CDD shall review proposed architectural plans for new house construction or subsequent building footprint alteration to confirm compliance prior to issuance of a building permit. Any future amendments to the Design Standards shall require CDD review and approval. The Design Standards shall be included in the CC&Rs. The Design Standards shall be enforceable by CDD.

A minimum of 10% (18 units) of the 187 non-waterfront smaller residential lots shall be single story. For the production homes on the 60'x100' lots, the architecture elevations and street landscape shall provide articulation along the streetscape on straight roads sufficient to avoid a visually linear appearance, namely along "B" Street Street where minimum 6,000 sq. ft. lots are located.

A minimum of three architectural elevations for the production homes on the 60'x100' lots shall be provided. CDD has the authority to ask for more than three elevations of those homes for review and approval should CDD determine it is required for an appropriate articulated streetscape and/or compatibility with the neighboring developments of Ravenswood and Lakeshore.

As provided for in the Design Standards, there shall be a single-story home with a maximum height of 25 feet (or at applicant's election a two-story home with the second story (maximum 33 feet) limited to the front half of the home) on lots 262, 263, 266, 267, 270 and 271 subject to review and approval of CDD. The applicant shall record this building height restriction on each of these six lots prior to or concurrent with recordation of the Final Map, in a form and content reviewed and approved by CDD.

In addition, the side yard setback on both sides of these six lots shall be minimum 10 feet, instead of 5 feet on one side and 10 feet on the other side as provided for all other minimum 60-foot wide lots. The standard 5-foot side yard setback on each other lot that adjoins Ravenswood shall be next to the 10-foot setback on the adjoining lot, so that the combined setback between those homes will always be minimum 15 feet. The maximum height on each other lot adjoining Ravenswood shall be 33 feet.

- 76 A ___ ___ Prior to filing the Final Map the applicant shall submit to CDD for review and approval a deed disclosure for lots 262, 263, 266, 267, 270 and 271 that states these lots are only permitted to have one story homes (maximum 25 feet in height) or two story element in the front half of the home (maximum 33 feet in height), and that each of these lots shall have a side yard setback of 10 feet. The approved language shall be recorded on each of these lots.
- 76 B ___ ___ Prior to filing the Final Map the applicant shall submit to CDD for review and approval a deed disclosure for lots 254 through 292 (all the lots adjoining Ravenswood Subdivision) that the maximum height of the house shall not exceed 33 feet. The approved language shall be recorded on each of these lots.
- 76C ___ ___ Prior to filing the Final Map the applicant shall submit to CDD for review and approval a deed disclosure that requires the rear lot fences for the lots that back up to the Open Space shall be open view fencing consistent with the applicant's wetland consultant.
- 76D ___ ___ Prior to filing the Final Map the applicant shall submit to CDD for review and approval a deed disclosure for each of the homes that informs them that there is a public trail in the development and that public pedestrians and bicyclists may use project streets and sidewalks.

Grade Elevations and Rear Yard Fencing Design Across from Ravenswood

77. ___ ___ The final design of retaining walls and wood fence/lattice between Pantages and Ravenswood shall be reviewed and approved by CDD at least 30 days prior to issuance of building permits to confirm compliance

with the Pantages Bays Design Standards. This rear yard fencing requirement in the Design Standards is enforceable by CDD.

Applicant has agreed to work in good faith with adjoining homeowners in Ravenswood to replace their existing rear yard fence with a new common fence consistent with the specifications above and in the Design Standards. Subject to the approval of the adjoining Ravenswood homeowner(s), applicant at its cost will remove the existing fence and construct the new common fence. If the necessary homeowner approval is not secured following good efforts as reviewed and accepted by CDD, then applicant shall construct within its rear property line a wood fence (with any necessary retaining wall or kickboard) that meets the design specifications set forth in the Design Standards.

Reduction in Highest Waterfront Pad Elevations

78. ____ Sheet pile walls will be at a uniform height (approximately 14 feet showing above water at current mean sea level). For the water access lots, there will be a slope control easement covering sheet pile walls and possible 2:1 slopes at rear of lot to reach rear pad elevation in order to maintain the uniform height of the sheet pile walls. The purpose of the sheet pile wall is to accommodate sea level during the 100-year flood event at high tide assuming the State's projection for sea level rise of 4.6 feet in the next 100 years. The length of the 2:1 slope behind the sheet pile wall will be determined in large part by the pad elevation on the each particular lot. For aesthetic purposes relatively high pad elevations on waterfront lots will be reduced at the final grading plan to the extent reasonable, and still address complying with the projected sea level rise, as well as accommodate storm water flows/outlets and gravity sewer to the TDBCSD pump station that will be constructed for the project, subject to review and approval of CDD.

Lakeshore Boundary Grading Alternative and Off-Site Dirt Hauling

79. ____ The Lakeshore Homeowners Association Board of Directors (Lakeshore HOA and Lakeshore Board) has expressed interest in modifying the proposed grading plan between Lakeshore residential lots and the adjoining Pantages residential lots and EVA to place engineered fill on the intervening strip owned by the Lakeshore HOA. Such a grading plan change would require cooperation between the applicant and Lakeshore Board, and potentially adjoining Lakeshore homeowners. Grading

easements and/or lot line adjustments will likely be required. Any grading revision in this location, along with any associated lot line adjustments and common fencing arrangements shall be subject to review and comment by Public Works and CDD review and approval as part of the final grading plan.

Applicant's engineers anticipate the grading operation will be a balanced cut and fill, however there is a potential to import up to 90,000 cubic yards per year. If the final grading plan and the actual grading is not balanced then applicant shall prepare an off-site dirt hauling plan (which will include the pavement analysis and any necessary road repair as required in Public Works Condition 102) for submittal to CDD for its review and approval.

**PUBLIC WORKS
CONDITIONS OF APPROVAL FOR
SUBDIVISION SD06-9010/DEVELOPMENT PLAN DP14-3017**

Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exception(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan/vesting tentative map submitted to Department of Conservation and Development, Community Development Division dated November 18, 2014.

UNLESS OTHERWISE NOTED, COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO FILING OF THE FINAL MAP.

General Requirements:

80. ____ Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this subdivision. Any necessary traffic signing and striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

Roadway Improvements (Frontage):

81. ____ Applicant shall construct curb, minimum 5-foot sidewalk, necessary longitudinal and transverse drainage, street lighting, border landscaping and irrigation, and pavement transitions at the terminus of the public portion of Point of Timber Road. Applicant shall construct face of curb 10

feet from the ultimate right-of-way line.

82. ____ Applicant shall install off-site signage along Point of Timber Road relative to on-street parking for trailhead use as access to the project Public Open Space area.
83. ____ Applicant shall construct these frontage improvements to County public road standards. An exception to the vertical gradient standards shall be allowed to reduce the minimum curb grade to 0.75% in conformance with existing adjacent improvements.
84. ____ Applicant shall provide two entry lanes (one each for residential and visitor), provide one exit lane, and locate any vehicular entrance gates a minimum 20 feet from the edge of the public travel way to allow vehicles to queue without obstructing traffic as reviewed and approved by Public Works Department. Sufficient area shall be provided outside any gate to allow a vehicle to turn around and re-enter Point of Timber Road in a forward direction.

Roadway Improvements (On-Site):

85. ____ Although all subdivision streets are to remain private, all streets are to be constructed to full County Public Road Standards as specified by Title 9 of the County Ordinance Code, including all minimums and maximums with respect to pavement width, horizontal alignment, vertical alignment and sight distance. Allowable exceptions from said Standards are as follows:
- a. "C" Court may be reduced to a 28-foot wide road within a 43-foot easement, as shown on the tentative map.
 - b. In-lieu of a crowned street section, the pavement may be sloped with a continuous 2% cross slope.
 - c. Sidewalks may be eliminated from one side of the street, with a minimum 5-foot wide sidewalk (width measured from curb face) on the remaining side. The pavement section on the side of the street without the sidewalk shall be bordered by a minimum 2-foot wide "flush-graded" curb.
 - d. Construction of a turnaround at the public street terminus of Wilde Drive.

86. ____ Applicant shall install safety-related improvements on all streets (including traffic signs and striping), as approved by the Public Works Department.

Access to Adjoining Property:

Proof of Access

87. ____ Applicant shall furnish proof to Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.
88. ____ Applicant shall furnish proof to Public Works Department that legal access to the property is available from Point of Timber Road and Wilde Drive.

Encroachment Permit

89. ____ Applicant shall obtain an encroachment permit from the Application and Permit Center, if necessary, for construction of improvements within the right-of-way of Point of Timber Road and Wilde Drive.

Lot Line Adjustment:

90. ____ Applicant shall complete and record the proposed Lot Line Adjustment with the East Contra Costa Irrigation District parcel at the northeast corner of the subject property.

AOB Reimbursements:

91. ____ The applicant, prior to constructing any public improvements, shall contact Public Works Department to determine the extent of any eligible credits or reimbursements against the area of benefit fees.

Road Dedications:

92. ____ Property Owner shall convey to the County, by Offer of Dedication, the right-of-way necessary for the planned turnaround at the terminus of Point of Timber Road.
93. ____ Property Owner shall convey to the Public, by Offer of Dedication, the right-of-way encumbering all Emergency Vehicle Access (EVA) roads and

bicycle and pedestrian trails. These facilities will NOT be accepted by the County for maintenance. More specifically, see Condition 46.

Street Lights:

94. ____ Applicant shall annex to the Community Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing.

Landscaping:

95. ____ All landscaping to be maintained by the property owner shall be submitted to the Zoning Administrator for review and approval.

Bicycle - Pedestrian Facilities:

Pedestrian Access

96. ____ Applicant shall design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.
97. ____ All curb ramps shall be designed and constructed in accordance with current County standards. A detectable warning surface (e.g. truncated domes) shall be installed on all curb ramps. Adequate easements shall be established to accommodate a minimum 4-foot landing at the top of any curb ramp proposed.

Emergency Vehicle Access (EVA):

98. ____ All roads, paths and trails intended for use as Emergency Vehicle Access, including bridges appurtenant thereto, shall be designed to accommodate HS-20 vehicle loads. Alignment and surfacing shall meet "all weather" standards per the approval of the Fire District and Public Works Department (20 feet, compacted AB all-weather surface).
99. ____ The Fire District and Public Works Department shall review and approve any proposed vehicular bollards or gates to be installed at the terminus of the publicly-maintained portion of Wilde Drive.

Parking:

100. ___ ___ Parking shall be prohibited in cul-de-sac bulbs, one side of on-site roadways where the curb-to-curb width is less than 36 feet, and on both sides of on-site roadways where the curb-to-curb width is less than 28 feet. "No Parking" signs shall be installed along these portions of the roads subject to the review and approval of Public Works Department.

Utilities/Undergrounding:

101. ___ ___ Applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Point of Timber Road. The developer shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters, and placements or arrangements of junction structures as a part of the Improvement Plan submittals for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer.

Construction:

102. ___ ___ The applicant shall provide a pavement analysis for those roads along the proposed haul route or any alternate route(s) that are proposed to be utilized by the hauling operation. This study shall analyze the existing pavement conditions, and determine what impact the hauling operation will have over the life of the project. The study shall provide recommendations to mitigate identified impacts. The applicant shall be responsible for the cost of constructing the recommended repairs. Prior to filing of the Final Map, the applicant shall execute a bonded road improvement agreement to assure the roadway repairs.

Maintenance of Facilities:

103. ___ ___ The maintenance obligation and financing of all common and open space areas, private roadways, private street lights, public and private trails and landscaped areas, EVA's, perimeter walls/fences, and on-site drainage facilities shall be included in the easements, conditions, and restrictions (CC&Rs), or an alternative financing and maintenance entity approved by the Public Works Department. All agreements between Reclamation District 800, the Town of Discovery Bay Community Services District and

the developer, along with the CC&Rs, shall be submitted for the review and approval of the CDD and Public Works Department at least 60 days prior to filing of the Final Map for the first phase.

Drainage Improvements:

Collect and Convey

104. ____ The applicant shall collect and convey all storm water entering and/or originating on this property, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the storm waters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.

Hold Harmless

105. ____ The property owner shall be aware that the creek banks on the site are potentially unstable. The property owner shall execute a recordable agreement with the County which states that the developer and the property owner and the future property owner(s) will hold harmless Contra Costa County and the Contra Costa County Flood Control and Water Conservation District in the event of damage to the on-site and off-site improvements as a result of creek-bank failure or erosion.

Miscellaneous Drainage Requirements:

106. ____ The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
107. ____ The applicant shall design and construct all proposed grading, dredging and improvements to Kellogg Creek in compliance with all Federal, State and Local regulatory permitting and design requirements. These agencies may include, but not be limited to: US Army Corps of Engineers, US Fish & Wildlife Services, California Department of Fish & Game, California Regional Water Quality Control Boards, Reclamation District #800, and Contra Costa County Flood Control District.
108. ____ Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

109. ____ Private storm drain easements, conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be dedicated over all proposed storm drains traversing residential lots or other portions of the property outside the "common area."

Floodplain Management:

110. ____ The project is located in a Special Flood Hazard Area as designated on the Federal Emergency Flood Insurance Rate Maps. The applicant should be aware of the requirements of the Federal Flood Insurance Program and the County Floodplain Management Ordinance (Ordinance No. 2000-33) Co Ord Code 82-28 as they pertain to future construction of any structures on this property.
111. ____ Prior to issuance of the grading permit, the applicant shall obtain a Conditional Letter of Map Revision (C-LOMR-F) from FEMA concurring that the proposed grading and site improvements, when completed, will be satisfactory for FEMA to revise the Flood Insurance Rate Map and eliminate the residential lots from the Special Flood Hazard designation.
112. ____ After completion of fill operations and installation of storm drain improvements, the applicant shall submit a LOMR-F application with FEMA to finalize the FIRM revision process. The FEMA LOMR-F must be obtained prior to issuance of building permits on the residential units.

National Pollutant Discharge Elimination System (NPDES):

- 113 ____ The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (Central Valley - Region IV).

Compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long-term BMPs in accordance with the Contra Costa Clean Water Program for the site's storm water drainage:

- Minimize the amount of directly connected impervious surface area.
- Label all storm drains ("No Dumping, Drains to Delta) using current storm drain markers.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Other alternatives comparable to the above, as approved by Public Works.
- Shallow roadside and on-site swales.
- Distribute public information items regarding the Clean Water Program and lot-specific IMPs to buyers.

Storm Water Management and Discharge Control Ordinance:

114. ____ The applicant shall submit a FINAL Storm Water Control Plan (SWCP) and a Storm Water Control Operation and Maintenance Plan (O+M Plan) to the Public Works Department, which shall be reviewed for compliance with the County's National Pollutant Discharge Elimination System (NPDES) Permit and shall be deemed consistent with the County's Storm Water Management and Discharge Control Ordinance (§1014) prior to filing of the final map. To the extent required by the NPDES Permit, the Final Storm Water Control Plan and the O+M Plan will be required to comply with NPDES Permit requirements that have recently become effective that may not be reflected in the preliminary SWCP and O+M Plan. All time and materials costs for review and preparation of the SWCP and the O+M Plan shall be borne by the applicant.
115. ____ Improvement Plans shall be reviewed to verify consistency with the final SWCP and compliance with Provision C.3 of the County's NPDES Permit and the County's Storm Water Management and Discharge Control Ordinance (§1014).
116. ____ Storm water management facilities shall be subject to inspection by Public Works Department staff; all time and materials costs for inspection of storm water management facilities shall be borne by the applicant.
- | 117. ____ Prior to ~~filing of the Final Map~~ final inspection permit for the first unit, the property owner(s) shall enter into a standard Storm Water Management Facility Operation and Maintenance Agreement with Contra Costa County, in which the property owner(s) shall accept responsibility for, and related to, operation and maintenance of the storm water facilities, and grant

access to relevant public agencies for inspection of storm water management facilities.

118. ____ Prior to filing of the Final Map, the property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Storm Water Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of storm water facilities by property owners.
119. ____ Any proposed water quality features that are designed to retain water for longer than 72 hours shall be subject to the review of the Contra Costa Mosquito & Vector Control District.
120. ____ All treatment BMP/IMPs constructed within each phase of the proposed development shall be designed and sized to treat, at a minimum, storm water generated from each phase constructed.

ADVISORY NOTES

- Applicant shall comply with the requirements of the Town of Discovery Bay Community Services District and Reclamation District 800.
- The applicant shall pay regional roadway fees to the East Contra Costa Regional Fee and Financing Authority (ECCRFFA) fee program to upgrade existing roadways. These fees are related to regional improvements separate from those identified in the East County Regional Area of Benefit (ECRAOB) fee program, and other mitigation fees required herein to be deposited to the County Road Trust account.
- This project may be subject to the requirements of the Department of Fish and Game. It is the applicant's responsibility to notify the Department of Fish and Game, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.

- All construction within the creeks, including bridges, culverts, outfall structures, etc., will be subject to permitting and review by the Public Works Department, Flood Control Division per the provisions of Division 1010 of the County Ordinance Code.
- This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.

Although the Storm Water Control Plan has been determined to be preliminarily complete, it remains subject to future revision, as necessary, during preparation of improvement plans in order to bring it into full compliance with C.3 storm water requirements. Failure to update the SWCP to match any revisions made in the improvement plans may result in a substantial change to the County approval, and the project may be subject to additional public hearings. Revisions to California Environmental Quality Act (CEQA) documents may also be required. This may significantly increase the time and applicant's costs associated with approval of the application.