

CONDITIONS OF APPROVAL FOR TREVOR SMITH, PANTAGES AT DISCOVERY BAY LLC (APPLICANT) AND C&D DISCOVERY BAY LLC AND WATERFRONT LOTS LLC (OWNERS): COUNTY FILES: #CDGP19-0002, CDRZ19-3252, CDSD19-9527, CDDP19-3024

Project Approval

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 December 2020 and 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. Vesting Tentative Map received on February 25, 2020 and 2020 Pantages Design Standards received on November 6, 2020.
 - 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. / Zetner Planning and Ecology prepared a Biological Resources Technical Report dated August 2020. / Impacts to federally protected reptiles and amphibians were analyzed in a separate memorandum prepared by Eric C. Hansen dated June 11, 2020.
 - 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. / Updated Engeo Geotechnical Report dated February 13, 2020.

- E. Hydrology: Stormwater Control Plan C.3 Report prepared by MacKay & Somps dated February 24, 2020. / Hydrologic and Hydraulic Analysis Memorandum prepared by MacKay & Somps dated February 24, 2020.
 - F. 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.
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 with the deletion of PS and SM and the addition of PR (County File #GP19-0002).
 - B. Approval of the proposed modified Rezoning from P-1, UE to a modified configuration of that same zoning designation (County File #RZ19-3252)
- If either, the general plan amendment or the rezoning application is not approved, then this approval shall be null and void.
3. This approval allows for a maximum of 277 residential lots.

Application Fees

4. The applications submitted were subject to an initial deposit of \$8,500 for the General Plan Amendment, \$32,635 for the rezoning, \$35,928 for the subdivision, and \$3,000 for the final development plan. The applications are subject to time

and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

Indemnification

5. 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

6. **At least 45 days prior to recordation of the Final Map or issuance of a grading or building permit, whichever occurs first**, the applicant shall provide a permit compliance report to the Department of Conservation and Development, Community Development Division (CDD) for review and approval. The report shall identify all conditions of approval that are administered by the CDD. The report shall document the measures taken by the applicant to satisfy all relevant conditions. Copies of the permit conditions may be obtained from the CDD. Unless otherwise indicated, the applicant will be required to demonstrate compliance with the applicable conditions of this report prior to filing the Final Map.

Project Phasing / Filing of Multiple Subdivision Maps

7. The filing of multiple Final Maps or multiple Parcel Maps must conform with Sections 66456.1 & 66463.1 of the Subdivision Map Act and is subject to the review and approval of the Community Development Division and the Public

Works Department. Contra Costa County has the authority to impose reasonable conditions relating to the filing of multiple Final Maps or multiple Parcel Maps, and the conditions of approval for this subdivision permit shall apply to each subdivision phase. If multiple subdivision maps will be filed, the conditions of approval for this permit must be satisfied for each phase prior to recordation of individual maps, and a separate compliance review application will be required for each subdivision phase to determine the status of the conditions of approval for that phase.

Child Care

8. **Prior to the issuance of building permit for a new residence**, the applicant 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.

Park Impact Fee

9. **Prior to submittal of a building permit for a new residence**, the applicant shall pay the applicable park impact fee as established by the Board of Supervisors.

Park Dedication Fee

10. **Prior to submittal of a building permit for a new residence**, the applicant shall pay the applicable park dedication fee as established by the Board of Supervisors.

Police Services District

11. **Election for Establishment of a Police Services District to Augment Police Services: Prior to the recordation of the Final Map**, 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 per parcel annual amount (with appropriate future CPI adjustment) 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.

Mitigation Measures

Air Quality

12. 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)**

13. 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)

14. 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

15. 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)**

16. 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

17. To offset impacts resulting from the removal of 23 trees on the project site, the following mitigation ratios shall be followed subject to the approval or modification of the Department of Conservation and Development: a 3:1 in kind replacement or replacement by native trees for non-native trees removed, or 6:1 for other native tree species that are planted to replace the two walnut trees. The Applicant 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):
 - Final Landscape Plan: **At least 30 days prior to the issuance of a grading permit**, prepared by a licensed landscape architect shall be submitted to the CDD for review and approval. Proposed trees to be replanted on the residential lots shall be identified on the final landscape plan.
 - Minimum Size Plants: All proposed trees shall be a minimum of 15-gallon size; all shrubs shall be a minimum 5-gallon size.
 - Maintenance Cost: Landscaping shall generally be designed to minimize landscape maintenance cost.
 - 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.

- 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 CDD. 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 B10-1)

18. The trees identified on the final landscape plan as trees to be planted on a residential lot shall be planted prior to final inspection for each lot.
19. Tree removal shall occur only with an approved grading or building permit.

Western pond turtle

20. Within 5 days of initiating construction activities, a qualified biologist (knowledgeable and experienced in western pond turtle identification) shall conduct preconstruction surveys of all areas in these locations that will or could be impacted by construction activities. Any western pond turtles or eggs observed within the construction zone shall be allowed to leave the area on their own accord or they shall be relocated by the qualified biologist to a suitable area outside of the construction zone. A survey report detailing the survey results shall be prepared and submitted to the biological permitting agencies prior to the start of construction.

After the preconstruction survey and prior to construction activities, an exclusion fence shall be placed between the development and the bank habitat and the emergent marsh habitat such that a western pond turtle could not move from these habitats into the development area. A qualified biologist shall be present during trenching activities associated with the exclusion fence installation.

The exclusion fencing will be standard silt fencing, approximately 42 inches in height that will be trenched 6 inches into the soil. The soil will then be compacted against both sides of the fence to prevent wildlife from gaining access underneath. The stakes will be placed on the inside of the fence facing the development. No gaps or holes are permitted in the fencing system, except for pedestrian and vehicle entry points.

The entry/exit points may be constructed in the fencing system for equipment and personnel, but the qualified biologist must ensure no wildlife is capable of entering the fenced off site via the gate. The gate structure must be flush to the ground with no holes or gaps (i.e., plywood gates with silt fencing flaps).

The fence will be inspected occasionally by a qualified biologist for holes, gaps, or access points, which shall be repaired upon discovery. The area inside the fence will also be inspected for trapped wildlife prior to the initiation of construction each day. If wildlife is discovered, the fence shall be opened and monitored until the wildlife has left the fenced area on its own accord and no work shall occur during this period. If the wildlife does not leave on its own accord, CDFW will be contacted before work may continue. **(Mitigation Measure BIO-6)**

Tree nesting birds/raptors

21. If construction related work would commence anytime during the nesting/breeding season for raptors or other bird species listed in the Migratory Bird Treaty Act (typically February 1 through September 15), a pre-construction survey of the project vicinity for nesting birds shall be conducted. This survey shall be conducted by a qualified biologist (experienced with the nesting behavior of bird species of the region) within 7 days prior to the commencement of construction activities that would occur during the nesting/breeding season. The intent of the survey shall be to determine if active nests are present within or adjacent to the construction zone within approximately 250 feet. The surveys shall be timed such that the last survey is concluded no more than one week prior to initiation of construction. If ground disturbance activities are delayed following a survey, then an additional pre-construction survey shall be conducted such that no more than one week will have elapsed between the last survey and the commencement of ground disturbance activities.

If active nests are found in areas that could be directly or indirectly affected by the project, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones (generally 250 for raptors and 50 for passerines) and types of construction activities restricted within them should be determined through consultation with the CDFW depending on the species, taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity;

- Distance and amount of vegetation or other screening between the construction site and the nest; and
- Sensitivity of individual nesting species and behaviors of the nesting birds.

The buffer zone around an active nest shall be established in the field with orange construction fencing or another appropriate barrier and construction personnel shall be instructed on the sensitivity of nest areas. The qualified biologist shall serve as a construction monitor during those periods when construction activities would occur near active nest areas of special-status bird species to ensure that no impacts on these nests occur. **(Mitigation Measure BIO-8)**

Swainson's hawk

22. The loss of potential foraging hawk habitat shall be mitigated in consultation with the CDFW following the recommendations provided below. The CDFW Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo swainsoni*) in the Central Valley of California (CDFG 1994) recommends that projects within 1 mile of an active nest provide:
- One acre of Habitat Management (HM) land (at least 10 percent of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90 percent of the HM lands protected by a conservation easement [acceptable to the Department] on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk) for each acre of development authorized (1:1 ratio); or
 - One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement [acceptable to the Department] which allows for the active management of the habitat for prey production on-the HM lands) for each acre of development authorized (0.5:1 ratio).

Prior to site disturbance to ensure that no impacts occur to nesting Swainson's hawk, preconstruction nesting surveys shall be conducted in conformance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee, 2000).

If an active nest is found within 0.25 miles of the project site, project-related disturbance sites should be reduced or eliminated during critical phases of the nesting cycle (March 1-September 15) and/or in consultation with the CDFW.

If Swainson's hawk are found nesting on the project site, a qualified biologist shall establish a non-disturbance boundary around the nesting site. The size of this nondisturbance boundary shall be determined by the biologist in the field and in consultation with the CDFW. The buffer shall be based upon the location of the nesting tree, the bird's tolerance of noise, and the type of disturbance (e.g., ground vibrations). Once the young have fledged from the nest, the buffer can be removed, and all project activities can commence.

Western burrowing owl

23. 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 $> 20^{\circ} \text{C}$, $< 12 \text{ km/hr}$ 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

See revised Mitigation Measure BIO-8

Cultural Resources

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. **(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 13 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 completion report. **(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 (MacKay & Somps 2020) 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 (adjacent to the south lake) 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 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 Requirement for Geology, Soil, and Foundation Report

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:
- Project landscaping shall include water-efficient native and adaptive plants in combination with high-efficiency irrigation equipment;
 - 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;
 - 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);
 - The heating, ventilation, and air conditions (HVAC) systems within each single family home shall use environmentally responsible refrigerants (i.e. non CFC-based refrigerants);
 - 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;
 - The project shall install high efficiency restroom fixtures including low- flow or dual flush toilets to reduce potable water use;

- 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
- The project shall install water and energy efficient appliances and lighting fixtures, including EnergyStar dishwashing and refrigeration equipment.
- 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 grading activities, a qualified SWPPP Practitioner (QSP) on the project team shall perform, at minimum, weekly monitoring of the water

quality in Kellogg Creek. 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: www.co.contracosta.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, if necessary. **(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 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/fedhol/>

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)**

45. **At least 30 days prior to the issuance of grading permits,** the Applicant shall prepare a detailed construction noise mitigation plan to the CDD for the review and approval. 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. **(Mitigation Measure NOI-1b)**
46. **At least 14 days prior to the issuance of grading permits**, the 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

47. Improvement plans shall include two 90-degree parking stalls located at the end of "A" Court designated for handicap accessibility in order to provide for vehicular access for the disabled adjacent to the public trails within the project open space. Signage at the project entry shall provide notice as to the location of the ADA parking stalls. The CC&Rs for the homeowners association shall confirm

the requirements with respect to project signage and for permanent retention of the ADA parking stalls at the "A" Court. The final location of the two 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)

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 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 the CDD that said improvements needed to serve the project are constructed and operational. **(Mitigation Measure UTIL-1)**

49. **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 the 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)**

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 Highway onto SR4 and its associated receiving lane. This improvement is included in the 2018 East County Regional Area of Benefit (ECRAOB) Transportation Mitigation Fee Update project list. The project applicant shall pay the required fee prior to the 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.

As indicated in Table 4.16-15 of the EIR, the project applicant would be required to contribute 12 percent of the total costs to the County's Road Trust account (Fund #8192) for this improvement upon issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in an AOB fee program.

In lieu of the nominal cash contribution towards this future improvement, the County finds it preferable to require the applicant to fully fund and install the signal and intersection improvements at Point of Timber/Bixler Road as described in **Mitigation Measure CUM TRA-5**. This alternative construction project would be of greater overall benefit due to its closer proximity to the subdivision and its greater impact thereon. **(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 2018 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required fee. **(Mitigation Measure CUM TRA-2)**
54. 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 included in the 2018 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required 2018 ECRAOB fee. Implementation of this mitigation measure would reduce this impact to less-than-significant. **(Mitigation Measure CUM TRA-3)**

55. 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 included in the 2018 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required fee. **(Mitigation Measure CUM TRA-4)**

56. 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.

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 to the County's Road Trust account (Fund #8192) for this improvement upon 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.

In lieu of the cash contribution towards this future improvement, the County finds that the best option is to require the applicant to fully fund and install the signal and intersection improvements at Point of Timber/Bixler Road as described:

The Applicant shall install a traffic signal and add left-turn lanes at all four intersection approaches for mitigation of the unacceptable traffic conditions at the Point of Timber Road/Bixler Road for CUM TRA-5 per Condition of Approval # 101. **(Mitigation Measure CUM TRA-5)**

57. 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 included in the 2018 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required 2018 ECRAOB fee. **(Mitigation Measure CUM TRA-6)**

58. 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.

As indicated in Table 4.16-15 of the EIR, the project applicant would be required to contribute between 10 percent and 11 percent of the total costs to the County's Road Trust account (Fund #8192) for this improvement upon issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in an AOB fee program.

In lieu of the nominal cash contribution towards this future improvement, the County finds it preferable to require the applicant to fully fund and install the signal and intersection improvements at Point of Timber/Bixler Road as described in **Mitigation Measure CUM TRA-5**. This alternative construction project would be of greater overall benefit due to its closer proximity to the subdivision and its greater impact thereon. **(Mitigation Measure CUM TRA-7)**

59. 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 included in the 2018 ECRAOB Transportation Mitigation Fee Update project list. The second through lane on the southeast-bound SR4 approach is not identified in any funding program.

The project applicant shall pay the required fee prior to the issuance of building permits. **(Mitigation Measure CUM TRA-8)**

60. 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.

As indicated in Table 4.16-15 of the EIR, the project applicant would be required to contribute between 4 percent and 6 percent of the total costs to the County's Road Trust account (Fund #8192) for this improvement upon issuance of building permits. This trust fund shall fund improvements to intersections identified as

operating unacceptably under cumulative conditions and not identified in an AOB fee program.

In lieu of the nominal cash contribution towards this future improvement, the County finds it preferable to require the applicant to fully fund and install the signal and intersection improvements at Point of Timber/Bixler Road as described in **Mitigation Measure CUM TRA-5**. This alternative construction project would be of greater overall benefit due to its closer proximity to the subdivision and its greater impact thereon. **(Mitigation Measure CUM TRA-9)**

61. 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 included as one of several improvements at this intersection in the 2013 ECRAOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required 2018 ECRAOB fee. **(Mitigation Measure CUM TRA-10)**
62. 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

63. **At least 30 days prior to the issuance of building permits**, the 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)**

Street Names

64. **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.

Architectural Design of Production Model Homes/Fencing Plan

65. **At least 30 days prior to the issuance of building permits**, the Applicant shall submit floor plans and elevations (showing building height) for the models of the production homes for the review and approval of CDD. The models of the production homes shall comply with the design standards indicated in COA #73 below. **At least 30 days prior to issuance of building permits**, the Applicant shall also submit a fencing plan for the whole of the Pantages project for the review and approval of CDD.

Homeowners Association

66. **Prior to filing the Final Map**, a homeowners association shall be formed for the ownership and maintenance (through homeowners assessments) of all common areas including lakes, common landscaping, clubhouse, and clubhouse parcel except as specified in these Conditions of Approval and/or Mitigation Measures. Examples of exceptions to ownership and maintenance by the homeowners association include the public roadway network (Parcel I). See Condition #67 below for details on ownership and maintenance.

Conditions, Covenants and Restrictions (CC&Rs)

67. **At least 60 days prior to filing the Final Map**, the Applicant shall submit the CC&Rs for the Pantages project for the review and approval of CDD. Prior to submitting the CC&Rs to CDD for review and approval, the applicant shall work with the Lakeshore Homeowners Association for review and comment of the CC&Rs. The CC&Rs shall include information for the future property owners that the streets, trails, and northern parks to be constructed from the entrance of the Pantages lots through the Open Space to near the water's edge along Kellogg Creek, as well as the sidewalks and streets within Pantages, and ADA parking stalls on "A" Court, shall be available to the public. 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), TDBCSD, and other public agencies (e.g., Mosquito Abatement District) right of ingress, egress and use of all roads within the Pantages 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 #72 below.

The CC&Rs shall confirm that maintenance of the lakes, common landscaping, open space, public trails and parks, clubhouse, and the typical police service district assessment shall be paid for by Pantages homeowners through assessments (for example, TDBCSD landscaping and lighting district assessments, 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 lakes lots, if there is one and the slope between that wall and the lake edge. The CC&Rs shall further confirm that any storm water drainage improvements associated with the slope, retaining wall, and lake shall be the responsibility of the homeowners association.

The CC&Rs shall include the Pantages Design Standards described below in Condition #s 73 through 76. 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.

Ownership, Maintenance, and Financial Responsibility for Project Parcels

68. 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" (approximately 0.87 acres) is the parcel that will include a clubhouse and parking lot. The clubhouse will be available for use by the property owners within the Pantages subdivision. Ownership, maintenance, and maintenance funding responsibility: Pantages homeowners association with funding from homeowners' assessments.
- B. Parcels "B," "D," "E," "F," "G," "J," "M," "Q," and "R" are open space (approximately 12.68 acres), Kellogg Creek setback area and trail (10.78 acres), and paseos adjacent to the south lake. Ownership, maintenance, and maintenance funding responsibility: Pantages homeowners association with funding from homeowners' property tax bill assessments through a landscaping and lighting district formed prior to recordation of Final Map.

Public Access Easements (PAE) over Parcels "B," "D," "J," and "Q" (Open Spaces) shall be maintained by a public maintenance entity (i.e. TDBCSD, East Bay Regional Park District, the County, etc.), subject to the establishment of a maintenance entity (e.g. Mello Roos District) for the maintenance of parks and trails in the project area established prior to filing the Final Map.

The Pantages HOA or other maintenance entity shall be responsible for the maintenance of the proposed retaining wall along the frontage of Parcel B and "B" Street. The retaining wall shall be structurally designed to support the proposed public road.

Sanitary sewer easement over Parcel R will be conveyed to TDBCSD.

- C. Parcel "H" is the south lake and related open space (approximately 23.23 acres). Ownership, maintenance, and maintenance funding responsibility: Pantages homeowners association with funding from homeowners' assessments.
- D. Parcel "I" is the public roadway network and associated right-of-way (approximately 15.94 acres). Ownership, maintenance, and maintenance funding responsibility: Contra Costa County following acceptance of the improvements.
- E. Parcel "K" is flexible recreational space (approximately 1.20 acres) adjacent to Parcel "A" will be is available for use by the property owners within the

Pantages subdivision. Ownership, maintenance, and maintenance funding responsibility: Pantages homeowners association with funding from homeowners' assessments.

- F. Parcels "L," "N," and "O" are the three public park locations along the residential uses northern edge (approximately 4.06 acres) and Public Access Easements (PAE) will be located over these parcels. Ownership shall be maintained by a public maintenance entity (i.e. TDBCSD, East Bay Regional Park District, the County, etc.), subject to the establishment of a maintenance entity (e.g.. Mello Roos District) prior to recordation of Final Map.
- G. Parcel "P" is the wetland complex and open space (approximately 53.97 acres) located north of Parcels "L," "N," and "O". Ownership (subject to conservation covenants/easements) and maintenance: TDBCSD. Maintenance funding responsibility: Pantages 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 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. Alternatively, though not preferred, would be ownership (with conservation covenants/easements) by the Pantages homeowners association, with maintenance by an approved conservancy organization, and funding through the association and/or an endowment.
- H. Parcel "S" is the north lake (approximately 6.84 acres). Ownership, maintenance, and maintenance funding responsibility: Pantages homeowners association with funding from homeowners' assessments.

Construction and Demolition Debris

- 69. **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.

LAFCO Boundary Reorganization/RD 800 De-Annexation and TDBCSD Annexation

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 TDBCSD.

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 has been de-annexed from RD 800.

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. Refer to the letters from the Contra Costa County Fire Protection District (CCCFPD) 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 CCCFPD August 24, 2005 for Fire District's conditions.

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

72. 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, 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 and Park Parcels). 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

73. Compliance with the Pantages Bays Design Standards (See 2020 Pantages Design Standards) shall be required for 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. The design of the new homes shall vary in architecture, roof and pitch designs, setbacks, and height. 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.

The architecture elevations and street landscape for the production homes shall provide articulation along the streetscape on straight roads sufficient to avoid a visually linear appearance.

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 127, 128, 131, 132, 135, and 136, 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 a minimum of 5 feet on one side and 10 feet on the other side. 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.

74. **Prior to filing the Final Map**, the Applicant shall submit to CDD for review and approval a deed disclosure for lots 127, 128, 131, 132, 135, and 136 that states

these lots are only permitted to have one story homes (maximum 25 feet in height) or two-story element limited to 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.

75. **Prior to filing the Final Map**, the Applicant shall submit to CDD for review and approval a deed disclosure for lots 121 through 157 (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.
76. **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 Kellogg Creek and the main lake shall be open view fencing consistent with the applicant's wetland consultant.
77. **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 are public trails in the development and that public pedestrians and bicyclists may use project streets and sidewalks.
78. **Prior to issuance of a building permit for a sign for the subdivision or for the public trails**, the Applicant shall submit to CDD for the review and approval of the proposed design of the sign(s).

Future Clubhouse and Flexible Recreation Area

79. A development plan application including plans for the design of the building and/or structures, parking area, landscaping, and improvements shall be submitted for the future clubhouse on Parcel A and the flexible recreational space on Parcel K. The submittal shall be accompanied by the appropriate deposit as adopted by the Board of Supervisors.

Grade Elevations and Rear Yard Fencing Design Across from Ravenswood

80. 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 Design Standards. This rear yard fencing requirement in the Design Standards is enforceable by CDD.

The 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

81. For aesthetic purposes relatively high pad elevations on waterfront lots along Kellogg Creek 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

82. 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 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 Jot 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.

The 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 #116) for submittal to CDD for its review and approval.

Inclusionary Housing Ordinance

83. This project is subject to the Inclusionary Housing Ordinance. Pursuant to Section 822-4.402 of the County Ordinance Code, a residential development of 277 for-sale units shall require at least fifteen percent of the for-sale units to be developed and sold as affordable units. The applicant is required to construct 41.55 inclusionary housing units for the project. The Applicant/Owner/Developer (Applicant) has submitted a Preliminary Inclusionary Housing Plan (PIHP) on February 3, 2021, which proposes to construct and sell eight (8) Lower Income Housing Units and thirty-three (33) Moderate Income Housing Units and to pay the in-lieu fee for the remaining fractional unit (0.55 unit) to comply with the County's Inclusionary Ordinance requirements. Any proposed changes to the PIHP are subject to the review and approval of the Assistant Deputy Director, Housing and Community Improvement Division, in the Department of Conservation and Development (DCD).

Special Circumstances and Conditions

84. This development has unique circumstances reflected in its Preliminary Inclusionary Housing Plan. The Developer (Pantages at Discovery Bay LLC) and County explicitly acknowledge these unique circumstances by preparing and accepting a Preliminary Inclusionary Housing Plan as a binding commitment to later submit one or more Final Inclusionary Housing Plans, which is an exception to the Inclusionary Housing Ordinance within the authority of the Director of the Department of Conservation and Development to grant. This should not be considered a precedent for any other development project.

No homebuilder has entered into a contract with the Developer, so there are no specifics regarding the inclusionary units which would typically be included in an Inclusionary Housing Plan at this stage. As a result, the Developer has submitted a Preliminary Inclusionary Housing Plan to memorialize the approach to be taken to finalize the Inclusionary Housing Plan.

Phasing

85. The Applicant has indicated that this is to be a phased subdivision. The inclusionary units will be developed in a proportionate amount to all units developed in each phase of the subdivision.

The Applicant is anticipating that the subdivision will be built out in four (4) phases with up to approximately 70 lots being developed per phase. In this case, up to 10 inclusionary units will be built in each of the four phases, with an additional inclusionary unit built in the first phase to reach the total of 41 inclusionary units.

The Inclusionary Housing Ordinance requires that an Inclusionary Housing Agreement (Agreement) be executed and recorded prior to a building permit (including grading) or Final Map, whichever comes first. Due to the unique circumstances of this project, it is anticipated that a new Agreement with the developer/builder or amendment to the Agreement, whichever deemed appropriate by DCD, shall be executed and recorded for each subsequent phase of the development to include a Final Inclusionary Housing Plan and all information as required by the Inclusionary Housing Ordinance that is not specified in the PIHP.

The Applicant's provision of the details that includes but is not limited to the type, size (including number of bedrooms), number of units in each phase of development, unit mix of market rate and inclusionary units, and lot locations of the inclusionary units will be deferred to prior to the issuance of a building permit for any portion of the phased development (including grading permits and demolition permits). The Applicant will be required to submit a Final Inclusionary Housing Plan for each phase of the development. Phasing and other details regarding the number of market units and affordable units in each phase will be delineated in the Final Inclusionary Housing Plan and subsequently in one or more Inclusionary Housing Agreements (i.e., one Agreement per phase).

For-Sale Inclusionary Housing In-Lieu Fee

86. Prior to recordation of the first phased Final Map or issuance of a building permit (including grading permits and demolition permits) for any portion of the residential development, the For-Sale Inclusionary Housing In-Lieu Fee of \$24,200.22 shall be paid in full for the remaining fraction of required inclusionary units (0.55 of a unit). This in-lieu fee is non-refundable and non-transferrable.

Final Inclusionary Housing Plan

87. **Prior to the issuance of a building permit (including grading permits and demolition permits) for any portion of each phase of the residential**

development, the Applicant shall submit a compliance review application for the execution of an Agreement and a Final Inclusionary Housing Plan for the review and approval of the Assistant Deputy Director of the Housing and Community Improvement Division of DCD. The Final Inclusionary Housing Plan shall provide the following information along with any information required by the County's Inclusionary Housing Ordinance for review and approval:

- A. A brief description of the residential development, including the number of market rate units and inclusionary units proposed, and the basis for the calculation of the number of units;
 - B. The unit mix, location, structure type, and size (including number of bedrooms) of the market rate and inclusionary units. A site plan depicting the location of the inclusionary units shall be provided;
 - C. The household income levels of the inclusionary units, which must be proportionate to the overall requirement
 - D. Number of units in the phase of development.
There may be more than one Final Inclusionary Housing Plan based on the development of the homes on the site, and thus ultimately more than one Agreement.
88. **Prior to the issuance of building permits for each phase of development**, or marketing of the inclusionary units, whichever occurs first, the Applicant shall submit with their compliance review application a timeline and schedule for the development and marketing of the inclusionary units for each phase for the review and approval of the Housing and Community Improvement Division of DCD.

For-Sale Inclusionary Housing (Inclusionary Housing Agreement)

89. **Prior to the recordation of a Final Map or the issuance of a building permit (including grading permits) for any portion of the residential development, whichever occurs first**, the Applicant shall submit a compliance review application and request to begin the process for DCD to prepare and execute an Agreement for the PIHP (form to be provided by the County, substantially based on the approved Conditions) with the County pursuant to Chapter 822-4 to ensure that the proportionate amount of the thirty-three (33) of the approved

units are affordable to and occupied by a "Moderate Income Household" and eight (8) of the approved units are affordable to and occupied by a "Lower Income Household" are incorporated and developed in each phase of the development. The Agreement for the PIHP shall include and address all information as required by Section 822-4.416 of the Inclusionary Housing Ordinance.

Pursuant to Chapter 822-4.402(b), the forty-one (41) inclusionary units in this development will be sold and occupied by lower income households and moderate-income households as referenced above. The inclusionary units shall be deed restricted so that if the home is sold within three (3) years, it must be sold at an affordable sales price to a lower income household or moderate-income household, depending on the lot designation upon initial sale. The forty-one (41) inclusionary units shall be deed restricted in order to ensure the continued affordability of this unit for at least three (3) years in accordance with Chapter 822-4 Inclusionary Housing Ordinance. The inclusionary unit shall be developed with the standards and restrictions in accordance with Chapter 822-4 of the County Ordinance Code.

Restrictions

For purposes of this condition, the following definitions apply:

- A. Inclusionary Unit - means a for-sale unit that is required to be sold at an affordable sales price to the households specified in Section 822-4.402 under the terms and conditions of Section 822-4.410(b).
- B. Lower Income Households - Households whose income does not exceed the lower income limits applicable to Contra Costa County, adjusted for household size, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.
- C. Moderate Income Households – Households earning up to 120 percent of the area median income for Contra Costa County as adjusted for family size as defined in Section 50093 of the California Health & Safety Code.
- D. Affordable Sales Price - means a sales price at which a lower income household, or a moderate-income households can afford to purchase an

inclusionary unit, calculated using the cost formula herein for lower income households and moderate income households, and taking into account reasonable down payment, actual household size, and other ownership housing costs described in California Code of Regulations, Title 25, Section 6920.

The affordable housing cost is calculated by DCD using the following formula: for lower income households, a product of forty (40) percent of seventy (70) percent of area median income adjusted for family size; and for moderate income households, a product of forty (40) percent of one hundred ten (110) percent of area median income adjusted for family size.

Affordable Sales Price shall not exceed the market price, which may be determined by an independent appraisal.

- a. Sale price calculations will take into account unit size and family size.
- b. The sales price calculation shall also take into account Anticipated Financing so that Housing Costs do not exceed the limits.

“Anticipated Financing” means private mortgage financing at current interest rates and terms. Anticipated Financing may include approved public agency down payments or second mortgage grants and loans.

“Housing Costs” include mortgage principal and interest, property insurance, property taxes, homeownership association dues, and expected utility costs.

General

90. The following are general terms for the for-sale inclusionary units.
 - A. The Applicant hereby represents, warrants, and covenants that it will cause the Agreements to be recorded in the real property records of Contra Costa County, California, and in such other places as the County may reasonably request. The Applicant shall pay all fees and charges incurred in connection with any such recording. The recording of the Agreements shall occur after the acceptance of the document by the County and prior to the recordation of a Final Map or the issuance a building permit, whichever occurs first, for the

PIHP Agreement; and prior to the issuance of a building permit for each subsequent Agreement for each phase of development.

- B. The County will provide to the Applicant income certification forms to be completed by the potential homebuyers. The income levels of all lower income household and moderate-income household applicants for units in the project shall be certified **prior to sale and initial occupancy**. The owner's occupancy of the inclusionary units shall be initially certified by the Applicant (or subsequent holder of the Agreement(s)) and annually thereafter by the Homeowner, and **records shall be submitted to the County over the term of the period of affordability**.
- C. For-Sale Inclusionary Unit Restrictions.
- a. The initial sale of a for-sale inclusionary unit shall occur only to a household that meets the following criteria:
 - i. The household has not owned a residence within the previous three years; and
 - ii. The household has no more than two hundred fifty thousand dollars in assets. This amount excludes assets reserved for a down payment and closing costs, assets in retirement savings accounts, and assets in medical savings accounts.
 - b. The initial purchaser of a for-sale inclusionary unit must agree to occupy the dwelling unit as the principal residence for at least three years.
 - c. A for-sale inclusionary unit may be resold after the initial sale to an above-moderate income purchaser and at a market price, provided that the sale results in a recapture by the county of a financial interest in the unit equal to the sum of:
 - i. The difference between the initial affordable sales price and the appraised market value of the unit at the time of the initial sale; and
 - ii. The county's proportionate share of any appreciation since the time of the initial sale. Appreciation is the difference between the resale price to the above-moderate income purchaser and the appraised market value at the time of the initial sale. The county's proportionate share of appreciation is equal to the percentage by which the initial affordable sales price was less than the appraised market value at the time of the initial sale.

- D. The 41 inclusionary units in the project shall be available for sale to members of the general public who are income eligible. The Applicant shall not give preference to any particular class or group of persons in owning the units, except to the extent that the units are required to be sold to lower income households and moderate-income households. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the sale of any unit in the project nor shall the Applicant or any person claiming under or through the Applicant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of owners of any unit or in connection with employment of persons for the construction of the project.
- E. In addition to any other marketing efforts, the lower income units and moderate-income units shall be marketed through local non-profit, social service, faith-based, and other organizations that have potential clients or constituents. The Applicant shall translate marketing materials into Spanish and Chinese. **A copy of the translated marketing materials and marketing plan shall be submitted to DCD for review prior to the marketing of the inclusionary units for each phase of development.**

Marketing may also include publicity through local television and radio stations as well as local newspapers including the East Bay Times, Classified Flea Market, El Mensajero, Thoi Bao Magazine, Berkeley/Richmond/San Francisco Posts (Post News Group), Korea Times, El Mundo, Hankook Ilbo, and the Sing Tao Daily.

- F. Upon violation of any of the provisions of the Agreement by the Applicant, the County may give written notice to the Applicant specifying the nature of the violation. If the violation is not corrected to the satisfaction of the County within a reasonable period of time, not longer than thirty (30) days after the date the notice is deemed received, or within such further time as the County determines is necessary to correct the violation, the County may declare a default under this Agreement. Upon declaration of a default or if the County determines that the Applicant has made any misrepresentation in connection with receiving any benefits under this Agreement, the County may apply to a

court of competent jurisdiction for such relief at law or in equity as may be appropriate.

Development Standards

91. The inclusionary units are subject to the standards of Section 822-4.412 of the County Ordinance.
 - a. Inclusionary units must be dispersed throughout the residential development and have the same access to all on-site amenities that are available to market rate units.
 - b. The construction quality and exterior design of inclusionary units must be comparable to the market rate units. However, inclusionary units may be smaller in size, developed on smaller lots, and have alternative interior finishes.
 - c. The average number of bedrooms for all inclusionary units must be equivalent to the average number of bedrooms for market rate units within the same residential development.
92. All inclusionary units in each phase of the development must be constructed and occupied prior to or concurrently with the market rate units within the same residential development.

Reporting and Compliance Review

93. **Prior to the initial occupancy of each inclusionary unit**, the Applicant shall submit to the Department of Conservation and Development, for review and approval, a compliance review application and fee accompanied by forms and documentation that demonstrates the owners of the inclusionary units are qualified as a lower income household or a moderate-income household. To comply with the provisions for enforcing the construction and occupancy standards of the Inclusionary Housing Ordinance, a hold shall be placed on the final inspection of the building permits issued for the development until the documentation has been deemed adequate by the Housing and Community Improvement Division of DCD.
94. **Prior to the sale of any portion of the development, recordation of a Final Map or issuance of building permits, whichever occurs first**, the Applicant shall provide to DCD the name of the owner or designee who is responsible for

permit compliance with this entitlement and their contact information (i.e., local mailing address, email addresses, and telephone number) until the development has been completed.

Should the contact subsequently change (e.g., new designee or owner), within 30 days of the change, the Applicant shall issue a letter to DCD with the name of the new party who has been assigned permit compliance responsibility and their contact information.

**PUBLIC WORKS CONDITIONS OF APPROVAL FOR
SUBDIVISION SD19-9527/DEVELOPMENT PERMIT DP19-3024**

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 the Department of Conservation and Development on February 25, 2020.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO FILING OF THE FINAL MAP.

General Requirements:

95. In accordance with Section 92-2.006 of the Ordinance Code, this subdivision shall conform to all applicable provisions of the Subdivision Ordinance (Title 9). Any exceptions therefrom must be specifically listed in this conditional approval statement. The drainage, road and utility improvements outlined below shall require the review and approval of the Public Works Department and are based on the Vesting Tentative Map received by the Department of Conservation and Development, Community Development Division, on February 25, 2020.
96. 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 (Bixler Road/Point of Timber Road/Wilde Drive/On-site Public):

97. The Applicant shall construct curb, minimum 5-foot sidewalk, necessary longitudinal and trans-verse drainage, street lighting, border landscaping and irrigation, and pavement transitions at the public portions of Point of Timber Road and Wilde Drive.
98. The Applicant shall construct the on-site road system to County public road standards and convey to the County, by Offer of Dedication, the corresponding

right-of-way. A reduction to the vertical gradient standards shall be allowed to reduce the minimum curb grade to 0.75% in conformance with existing adjacent improvements.

99. The Applicant shall install safety-related improvements on all streets (including traffic signs and striping), as approved by the Public Works Department.
100. The Applicant shall install speed bumps per County standards or incorporate other traffic calming measures along "A" Street, "B" Street, and Point of Timber Road as reviewed and approved by Public Works.
101. The Applicant shall construct the following improvements at the Point of Timber/Bixler Road intersection; pavement transitions for adding left-turn lanes at all four intersection approaches, traffic signing and striping, and traffic signals as reviewed and approved by the Transportation Engineering Division of the Public Works Department. Lane and deceleration transitions shall be based on a design speed of 50 miles per hour.

Access to Adjoining Property:

Proof of Access

102. The 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.
103. The 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

104. The 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, Bixler Road and Wilde Drive.

Sight Distance:

105. The Applicant shall provide sight distance at the intersections of the on-site roadways for a design speed of 35 miles per hour. Any new landscaping, signs,

fencing, retaining walls, or other obstructions proposed at the driveways shall be setback to ensure that the sight lines are clear.

Lot Line Adjustment:

106. The 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:

107. 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:

108. The 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.

Street Lights:

109. The Applicant shall annex to the Community Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing. Annexation into a street light service area does not include the transfer of ownership and maintenance of street lighting on private roads.

Landscaping:

110. All landscaping to be maintained by the property owner shall be submitted to the CDD for review and approval.

Pedestrian Facilities:

Pedestrian Access

111. The 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.
112. 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):

113. 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.

Parking:

114. 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.

Utilities/Undergrounding:

115. 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.

Construction:

116. 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:

117. 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 covenants, 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. The County will not accept these properties or facilities for ownership or maintenance.
118. The Applicant shall establish a maintenance entity (i.e. Mello Roos District) for the maintenance of parks, public landscaped areas, and trails in the project area and Discovery Bay parks, maintained landscape areas, and recreation facilities.

Drainage Improvements:

Collect and Convey

119. The Applicant shall collect and convey all stormwater 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 stormwaters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.

Hold Harmless

120. 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:

121. The Applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
122. The Applicant shall design and construct all proposed grading, dredging, excavation and improvements are 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 & Wildlife, California Regional Water Quality Control Boards, Reclamation District #800, and Contra Costa County Flood Control District.
123. The Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
124. 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."
125. The Applicant shall enter into a License Agreement for Maintenance Purposes or provide a private Storm Drain Easement, to be transferred to the maintenance entity (HOA or CSD) upon its formation, with the County to maintain the proposed drainage line connecting Lake South and Lake North shown on the vesting tentative map within the future County right-of-way reviewed and approved by Public Works.
126. The Applicant shall ensure that Lake South, Lake North, the drainage system connecting the lakes, and the proposed pump systems shown on the vesting tentative map over parcels B, D, E, F, G, H, W, and S are included in the covenants, conditions, and restrictions (CC&Rs), or an alternative financing and maintenance entity approved by the Public Works Department. The County will not accept these properties or facilities for ownership or maintenance.

Floodplain Management:

127. 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.

128. The property lies within the limits of Urban Level of Flood Protection area (i.e. urban/urbanizing Sacramento-San Joaquin Valley), a map certified by the Conservation and Development Director and on file with the Department of Conservation and Development. The applicant needs to furnish documentation whether the project is or is not in the applicable geographical area per Government Code Sections 65865.5, 65962, and 66474.5. Specifically, documentation to evaluate if (1) it is located within an area with a potential flood depth above 3.0 feet from sources of flooding other than localized conditions that may occur anywhere in the community, and (2) within a watershed with a contributing area of more than 10 square miles.

If all the criteria required by the Government Code sections are met, then the applicant must provide urban level of flood protection. Applicant must also submit documentation for this urban level of flood protection, providing 200-year base flood protection. This Urban Level of Flood Protection is a state requirement, separate from and in addition to the National Flood Insurance Program requirements also covered in the County Flood Plain Management Ordinance.

129. **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.
130. 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):

131. 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.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention area) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permit.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention basins) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES Permit.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Shallow roadside and on-site swales.
- 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.
- Distribute public information items regarding the Clean Water Program and lot specific IMPs to buyers.
- Other alternatives comparable to the above as approved by Public Works.

Stormwater Management and Discharge Control Ordinance:

132. The Applicant shall submit a FINAL Storm Water Control Plan (SWCP) and a Stormwater 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 Stormwater Management and Discharge Control Ordinance (§1014) prior to filing of the final map. To the extent required by the NPDES Permit, the Final Stormwater 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.
133. 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 Stormwater Management and Discharge Control Ordinance (§1014).
 134. Stormwater management facilities shall be subject to inspection by Public Works Department staff; all time and materials costs for inspection of stormwater management facilities shall be borne by the applicant.
 135. **Prior to filing of the final map**, the property owner(s) shall enter into a Stormwater 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 stormwater facilities, and grant access to relevant public agencies for inspection of stormwater management facilities.
 136. **Prior to filing of the final map**, the property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Stormwater Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of stormwater facilities by property owners.
 137. 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.
 138. All treatment BMP/IMPs constructed within each phase of the proposed development shall be designed and sized to treat, at a minimum, stormwater generated from each phase constructed.
 139. Prior to filing the final map, the applicant shall provide evidence to CDD that the applicant and the East Contra Costa Fire Protection District have entered into an agreement to annex into the Community Facilities District (CFD 2020-1).

ADVISORY NOTES

ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED IN ORDER TO INFORM THE APPLICANT OF ADDITIONAL REGULATIONS, ORDINANCES, AND REQUIREMENTS THAT MAY BE APPLICABLE TO THE PROPOSED PROJECT.

A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

A. This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a 90-day period after the project is approved.

The ninety (90) day period, in which you may protest the amount of any fee or the imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the Department of Conservation and Development within 90 days of the approval date of this permit.

- B. The Applicant shall comply with the requirements of the Town of Discovery Bay Community Services District and Reclamation District 800.
- C. The Applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the East Contra Costa Regional Fee & Finance Authority/ Regional Transportation Development Impact Mitigation (ECCRFFA/RTDIM), East County Regional Areas of Benefit as adopted by the Board of Supervisors, and other mitigation fees required herein to be deposited the County Road Trust account. Payment is required prior to issuance of a building permit.
- D. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and

Wildlife, Bay Delta Region (Region 3), 2825 Cordelia Road, Suite 100, Fairfield, CA 94534 of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Wildlife Code.

- E. 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.
- F. Although the Stormwater 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 stormwater 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.
- G. This project is subject to the development fees in effect under County Ordinance as February 25, 2020, the date the vesting tentative map application was accepted as complete by the Department of Conservation and Development. These fees are in addition to any other development fees, which may specified in the conditions of approval.
- H. Future property owners shall be aware of the pre-annexation agreement between the applicant and the Town of Discovery Bay Community Services District (TODBCSD), which includes payment of several fees to be paid at the time of approval from the TODBCSD for a building permit.
- I. The applicant shall comply with the requirements of the following agencies:
 - Department of Conservation and Development, Building Inspection Division
 - East Contra Costa County Fire Protection District