

Conditions of Approval

CONDITIONS OF APPROVAL FOR COUNTY FILES #CDGP07-0009, #CDRZ09-3212, #CDS10-9280, and #CDDP10-3008 (TASSAJARA PARKS)

Administrative

1. These conditions of approval pertain to the Tassajara Parks project (“Project”), as approved in County Files #GP07-0009, #RZ09-3212, #SD10-9280, and #DP10-3008.
2. The Applicant shall comply with all conditions of approval set forth herein. As used in these conditions, “Applicant” means: a) for conditions that must be satisfied before filing of a Final Map, the entity(ies) submitting the Final Map for recordation and/or the owner(s) of the land subject to that Final Map; and b) for the conditions that are to be satisfied after filing of the Final Map, the landowner(s) and/or HOA or equivalent owner’s association. References to the Project sponsor or developer shall be deemed to be references to the Applicant.
3. Whenever these conditions refer to approval or satisfaction of the CDD or Public Works Department, that approval or satisfaction may be provided by staff, and staff may refer the matter to a County official (Zoning Administrator or department director) if deemed appropriate.
4. **Vesting Tentative Map approval is granted** to subdivide the Northern Site into no more than 125 single-family residential lots and 10 parcels for non-urban development, and to subdivide the Southern Site into no more than two parcels (if San Ramon Valley Fire Protection District land offer is accepted, and if not, then this 7-acre parcel will be dedicated to EBRPD), as more particularly shown on VTM/PDP/FDP (SD 9280).
5. **Preliminary and Final Development Plan approval is granted** to allow for the construction of the Tassajara Parks Project with associated infrastructure, utility, and roadway improvements consisting of the following primary elements, generally as shown on plans submitted to the County on August 19, 2020:
 - a) Up to 125 single-family residences;
 - b) Pedestrian staging area;
 - c) Stormwater detention basin;
 - d) Grading activities of approximately 300,000 cubic yards for site preparation and mitigation of landslide hazards;
 - e) Roadway dedications along Finley Road and Camino Tassajara;
 - f) Wetlands creation;
 - g) Sewer pump station;
 - h) Granting of a trail easement to the East Bay Regional Park District; and
 - i) Off-site circulation improvements at the Tassajara Hills Elementary School Parking Lot.
6. **Tree Permit approval is granted** to allow for the removal of up to 19 code-protected trees.
7. **Exceptions to the following Title 9 requirements are granted** as part of this approval:
 - a) Requirement for frontage improvements and pavement widening
 - b) Requirement for streetlights within one mile of an existing school

- c) Requirement for frontage improvements on the side or sides of the roadway adjacent to the subdivision
 - d) Requirement for sidewalks within one mile of an existing school
 - e) Requirement for the placement of overhead utility distribution facilities within any subdivision to be placed underground
 - f) Requirement to meet all “collect and convey” drainage standards
8. The maximum number of single-family residential lots approved as part of the Project is 125.

Urban Limit Line Change

9. **The 30-Acre Modification to the ULL to Incorporate the Residential Development Area (“ULL Modification”) is approved.** This Board, having fully considered the matter, has approved the minor modification to the ULL as described herein pursuant to Chapter 82-1 of the Ordinance Code by the four-fifths vote requirement of section 82-1.018(a)(3) and (4). This approval is based on substantial evidence in the record, including, without limitation, the County Planning Commission recommendations, the reports on the Project to both the County Planning Commission and the Board from the Department of Conservation and Development, the Project EIR, the testimony and comments received in connection with this matter, and other relevant materials in the administrative record.
10. In accordance with Section 2.07(b) of the Development Agreement, if the Developer has not filed its first final map by the end of the Initial Term plus any extensions obtained under Section 1.05 of the Development Agreement (as those terms are defined therein), the Board shall have the right, but not the obligation, to rescind the ULL Modification, General Plan Amendments, and the Rezoning (if necessary) pursuant to the provisions of the Planning and Zoning Law (Government Code §§ 65000-66035).

Project Phasing / Filing of Multiple Final Maps

11. 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 pursuant to the County’s Subdivision Ordinance and the state Subdivision Map Act. Additionally, the Applicant must satisfy certain conditions before filing the first Final Map, as more particularly described in the Development Agreement and as set forth herein. Contra Costa County has the authority to impose reasonable conditions relating to the filing of multiple Final Maps or multiple Parcel Maps as set forth in these conditions of approval, and these conditions of approval for this subdivision shall apply to each subdivision phase unless otherwise expressly indicated. If multiple subdivision maps will be filed, the conditions of approval for this subdivision 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.

GHAD Annexation/Creation

12. **Prior to filing the first Final Map, in addition to other requirements,** the Applicant or property owner shall identify an existing Geologic Hazard Abatement District (GHAD), or establish a new GHAD for the Project to address the prevention, mitigation, abatement, and control of geological hazards in accordance with Public Resources Code section 26500 *et seq.* (“GHAD Law”). Prior to annexation into an existing GHAD or formation of the new GHAD,

a draft "Plan of Control" prepared by a Engineering Geologist certified pursuant to Section 7822 of the California Business and Professions Code shall be provided to the CDD, which shall contain the contents set forth in Public Resources Code section 26553.

Consistency

13. Approval of the Vesting Tentative Map is contingent upon the Board of Supervisors also approving the ULL Modification, General Plan Amendments (GP07-0009), and rezoning elements (#RZ09-3212) of the Project.
14. The Vesting Tentative Map, preliminary/final development plans, and tree permit approvals are based on and as generally shown on the following documents:
 - a) Major subdivision application received by the CDD;
 - b) Development Plan Application received by the CDD;
 - c) Vesting tentative map and development plans of Carlson, Barbee and Gibson, Inc. received by the CDD on August 19, 2020;
 - d) Landscape plans of David Babcock and Associates dated February 9, 2015; and
 - e) Arborist report of HortScience Inc. dated May 15, 2015

Duration

15. If the Board of Supervisors does not adopt Ordinance No. _____ approving the Development Agreement, the Vesting Tentative Map is granted for a period of three years, which may be extended upon proper request(s) for extension, and review and approval of the CDD, or as otherwise extended pursuant to applicable laws, in accordance with applicable provisions of the Subdivision Map Act and the County's Subdivision Ordinance. If the Board of Supervisors adopts Ordinance No. _____ approving the Development Agreement, then the duration of the Vesting Tentative mMap is as specified in the Development Agreement.

Indemnity

16. The Applicant shall enter into an Indemnification Agreement with the County, and the Applicant shall indemnify, defend (with counsel reasonably acceptable to the County), and hold harmless the County, its boards, commissions, officers, employees, and agents (collectively "County Parties") from any and all claims costs, losses, actions, fees, liabilities, expenses, and damages (collectively, "Liabilities") arising from or related to the Project, the Applicant's applications for a land use entitlement, the County's discretionary approvals for the Project, the County's actions pursuant to the California Environmental Quality Act and planning and zoning laws, or the construction and operation of the Project, regardless of when those Liabilities accrue. The scope of indemnity provided by the Applicant is more specifically described in the Indemnification Agreement.

Fees

17. This Project is subject to initial application deposits of \$85,400 for the General Plan Amendments, \$20,063 for the rezoning review, \$2,698 for the vesting tentative map review, and \$3,500 for the development plan review, which were paid with the application submittals, plus time and materials costs if the application review expenses exceed 100% of the initial deposit. Unless otherwise expressly provided for in the Development Agreement or the

conditions set forth herein, any additional costs due under applicable County laws and regulations must be paid prior to issuance of a building permit, within 60 days of the permit's effective date, or prior to use of the 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 2013-340, where a fee payment is over 60 days past due from the date of approval, the application shall be charged interest at a rate of ten percent (10%). The Applicant may obtain current costs by contacting the Project planner. If the Applicant owes any additional costs, a bill will be sent to the Applicant shortly after permit issuance.

18. **No later than five days after Project approval**, the Applicant shall pay the California Department of Fish and Wildlife (CDFW) CEQA filing fee of \$3,445.25 and a County Clerk processing fee of \$50, as mandated by State law. Pursuant to Fish and Game Code Section 711.4(c)(3), the Project will not be operative, vested, or final, and local government permits for the Project shall not be valid until the filing fees required pursuant to the foregoing section are paid. A Notice of Determination, which commences the running of a 30-day statute of limitations for CEQA purposes, cannot be filed absent payment of these fees.
19. In the event that the County elects to use a third-party consultant to assist in the monitoring of environmental mitigation measures set for the in the Mitigation Monitoring and Reporting Program (MMRP) and other requirements of these conditions, then the Applicant shall be responsible for payment of all actual fees associated with the consultant's contract.
20. In the event the Board of Supervisors adopts Ordinance No. _____ approving the Development Agreement, the Applicant or property owner shall pay a deposit of \$1,000 to cover staff time needed for each subsequent review (i.e., annual review) or proposed modification of that agreement (if any such modification is requested by the Applicant). The required fee shall be paid to the CDD no less than fourteen days prior to the anniversary date for initiation of each annual review, or shall be submittal with any request for modification of the Development Agreement.

Compliance Report

21. **Prior to each of the following events: a) recordation of a Final Map; b) CDD stamp-approval of plans for issuance of a building or grading permit; and c) commencement of construction-related activities**, the Applicant shall submit an application for Condition of Approval compliance verification to confirm compliance with conditions relevant to that event. The initial deposit for a project of this size is \$10,000, which is subject to staff time and materials costs. Should staff costs exceed the deposit, additional payment will be required in accordance with applicable laws and regulations. The Applicant shall submit a report in compliance with the conditions of approval set forth herein for review and approval of the CDD. The report shall list each condition followed by a description of what has been provided as evidence of compliance with that condition. The CDD may reject the report if it is not reasonably comprehensive with respect to the applicable requirements for the requested approval, and the Applicant shall re-submit this compliance verification with changes made in response to comments received by the CDD. This condition will remain active throughout the construction phase of the Project, and additional submittals may be required to ensure compliance with each sub-phase (e.g., demolition, grading, building) or subsequent Project element (i.e., land conveyance).

Permitted Land Uses

22. For purposes of the project-specific P-1 district, the permitted land uses are as follows:

- a) detached single-family residences and secondary uses normally incidental to them
- b) pedestrian staging area
- c) sewer pump station
- d) detention basin for drainage purposes
- e) public or private park or recreational areas
- f) fire protection district services and activities
- g) agriculture
- h) grazing
- i) wetland preservation and creation
- j) habitat mitigation
- k) open space

Inclusionary Housing

23. This Project is subject to the Inclusionary Housing Ordinance in place as of the Effective Date of the Development Agreement (as that term is defined therein) pursuant to Section 2.04(b) thereof. Pursuant to Section 822-4.402 of the County Ordinance, a residential development of one hundred twenty-five for-sale units shall require at least fifteen percent of the for-sale units to be developed and sold as inclusionary units unless an in-lieu fee is paid, as further explained below.

As an alternative to the requirement to construct inclusionary housing, the Applicant has proposed the payment of an in-lieu fee. This alternative for the collection of an in-lieu fee, as established in DCD's fee schedule, has been accepted by the County.

Prior to issuance of the first building permit, the Applicant shall pay to the County the full amount of the Inclusionary Housing Ordinance in-lieu fee of \$484,361.25. This in-lieu fee is non-refundable.

24. Should the Applicant choose not to satisfy the Inclusionary Housing Ordinance via the full payment of the above-referenced in-lieu fee, the Applicant shall comply with County Ordinance Chapter 822-4 by constructing the required number of inclusionary units either on-site, off-site, or via a combination of both on-site and off-site construction.

Covenants, Conditions, and Restrictions

25. The Applicant shall record a declaration of covenants, conditions, and restrictions (CC&Rs) that requires the owner's association to maintain all common areas, emergency vehicle access ways (those not under County ownership), and private roadways, within the development beginning when the Applicant assigns the maintenance agreement to the owner's association. A copy of the foregoing relevant provisions of the Project's CC&Rs shall be submitted for review and approval of the CDD **prior to recordation of the first Final Map**.

26. The CC&Rs shall address, to the reasonable satisfaction of the CDD, the following:

- a) Funding for maintenance of common areas;
- b) Residential Design Guidelines consistent with the Project approvals; and

c) Provisions for incorporation of on-site water conservation measures.

26-1. On-site water conservation measures required by EBMUD for the Project (detailed in COA #80-3 below) shall be included in all the CC&Rs for every residential unit included in the Project. The CC&Rs shall also require that the on-site water conservation measures listed in the CC&Rs be in place at the time of resale. Further, the CC&Rs shall provide that the provision(s) incorporating on-site water conservation measures recorded in the CC&Rs may not be changed without prior written approval from EBMUD.

27. **Prior to recordation of the first Final Map**, the Applicant shall submit a proposed deed disclosure statement to satisfy this COA 27 for review and approval of the CDD. This disclosure statement shall advise prospective buyers of property within the subdivision, to the existence and terms of the recorded CC&Rs.

EBRPD Dedication

28. **Prior to recordation of the first Final Map**, the Developer shall provide the CDD with copies of the fully executed EBRPD Dedication Agreement and the approved Acceptance of Offer of Dedication to dedicate the approximately 609-acre Southern Preservation Area in fee (subject to any required conservation easement in favor of the resource agencies for habitat purposes) and approximately 118 acres of the Northern Site in fee (subject to any GHAD maintenance and public access easement(s)), to the East Bay Regional Park District (EBRPD) (or the Regional Parks Foundation, at EBRPD's request), both for park and recreational purposes, and subject to any other terms that are mutually acceptable to the EBRPD and the Developer. As part of the foregoing offers of dedication, the Developer shall establish a perpetual funding mechanism for the EBRPD's benefit to provide ongoing funding for maintenance of the foregoing lands in the total amount of one hundred dollars (\$100) per unit plus an annual inflationary increase consistent with the Consumer Price Index, San Francisco Area (CPI). The foregoing offer of dedication for the referenced portions of the Northern Site include an approximately 0.19-acre portion for purposes of the Pedestrian Staging Area. **Prior to CDD stamp-approval of plans for issuance of the building permit for the first residential unit**, the Developer shall improve the Pedestrian Staging Area in a manner reasonably acceptable to the EBRPD as reflected in a mutually acceptable agreement between the Developer and the EBRPD.

Park Impact/Park Dedication Fees

29. **Prior to recordation of the first Final Map**, the Applicant shall pay a per unit Park Impact/Park Dedication fee of \$8,129. This fee amount is the current rate at the time of the Effective Date of the Development Agreement. Pursuant to Section 2.04(b) of the Development Agreement, the actual amount due for each unit shall be that which is in effect on the Effective Date of the Development Agreement for a period of ten years; after the expiration of this 10-year period, the Developer shall be required to pay a per unit Park Impact/Park Dedication fee in the amount in effect at the time of building permit issuance for that unit.

Law Enforcement Services

30. **Prior to recordation of the first Final Map**, the Applicant shall participate in the provision of funding to maintain and augment law enforcement services by voting to approve a special tax

for the parcels created by this subdivision approval. The tax shall be an annual amount per lot (with appropriate future CPI adjustment) then established at the time of voting by the Board of Supervisors. As of the date of approval of this Project, the annual fee is \$200.00 per lot. The election to provide for the tax shall be completed **prior to recordation of the first Final Map**. The Applicant shall be responsible for paying the cost of holding the election, payable at the time the election is requested by the Applicant. A minimum of three to four months should be allowed for processing.

Tree Preservation

31. Up to 19 code-protected trees may be removed as identified in the May 15, 2015, arborist report of HortScience Inc. (Appendix C.3 of the DEIR/RDEIR).
32. **Prior to issuance of the building permit for the first residential unit**, the Applicant shall plant at least 19 trees measuring no less than 24-inch box size, to replace the trees approved for removal. To avoid burdening future buyers of residential lots with responsibility of maintaining their health, the 19 trees shall be planted in areas of the Project Site that are to be conveyed to the EBRPD or any other areas owned and maintained by the owner's association.
33. Required restitution for Approved Tree Removal – The following measures shall be implemented to provide restitution for the protected trees that have been approved for removal.
 - a) Tree Restitution Planting/Irrigation Plan: **Prior to recordation of the first Final Map**, the Applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the CDD. The plan shall identify protected trees that are to be removed or preserved. Removed code-protected trees shall be replaced with minimum 24-inch box size California Black Walnut trees, or an alternate tree of a native and drought-tolerant species. The plan shall be accompanied by an estimate, prepared by a licensed landscape architect or arborist, or the materials and labor costs to complete the replacement of the protected trees.
 - b) Required Security to Assure the Completion of Plan Improvements: **Prior to recordation of the first Final Map**, the Applicant shall submit a security (e.g., bond, cash deposit or other financial instrument) that is acceptable to the CDD. The security shall include the amount of the approved cost estimate for replacement and planting, *plus* a 20% inflation surcharge.
 - c) Initial Fee Deposit for Processing of a Security: The County Ordinance Code requires that the Applicant pay fees for all time and materials costs of staff for processing a landscape improvement security. At the time of submittal of the security, the Applicant shall pay a deposit of \$100.
 - d) Duration of Security: **Prior to the issuance of the building permit for the first residential unit**, the consulting arborist shall verify that the required replacement trees have been properly planted, and when verified, notify the CDD in writing. The security shall be retained by the County for a minimum on 12 months, and up to 24 months, beyond the date of receipt of the written verification of installation. A prerequisite of releasing the

bond between 12 and 24 months shall be to have the Applicant arrange for the consulting arborist to inspect the required replacement trees and to prepare a report on the trees' health. In the event the CDD determines that the required replacement trees have been damaged or have died, and determines that the Applicant has not been diligent in providing a replacement, then the CDD may require that all or part of the security be used to provide for replacement of the dead or damaged tree(s).

- e) Integration with Final Landscape Plan: The tree restitution planting and irrigation plans described in Subsection(a) above may be incorporated as part of the "Final Landscape Plan" required below. However, the restitution planting and irrigation plan shall identify the replacement trees required to replace protected trees, and that are intended to satisfy this condition. In addition, the estimate required pursuant to Subsection-(a) above shall only cover materials and labor associated with the implementation of the required tree restitution, and not the full Final Landscape Plan.

Final Landscape Plan

34. **Prior to recordation of the first Final Map**, a final landscape and irrigation plan shall be submitted to the CDD for review and approval. The plan shall be designed in general accord with the preliminary landscape plans of David Babcock and Associates, dated February 9, 2015. The Final Landscape Plan shall be compliant with the State Model Water Efficient Landscape Ordinance (or the County's landscape ordinance if one has been adopted).

Residence Design Standards

35. **Prior to issuance of the building permit for the first residential unit**, the Project sponsor shall submit architectural plans detailing each of the different residence floor plans proposed for construction. At minimum, the submitted plans shall include exterior elevations, floor layouts, and exterior materials; which all shall be subject to review and approval of the CDD. The following approved design guidelines shall be included as a note on the approved Final Map. All residential structures shall be subject to the following design guidelines:

- a) Except as modified by these conditions of approval and related Project entitlements, the guide for development shall be the R-6 Single-Family Residential Zoning District.
- b) Residential lot yard and setback standards shall be as follows:

Lot Size	Primary Setback	Secondary Setback	Minimum Side Yard	Aggregate Side Yard	Rear Yard
6,999 ft ² or less	20	15	5	10	15
7,000 ft ² to 9,999 ft ²	20	15	5	15	15
10,000 ft ² or greater	20	15	10	20	15

- c) The Residential Development Area shall consist of no less than four different floor plans, which shall be varied at roadway intersections.

- d) For a gradual transition between the development and the adjacent low-lying wetland area, residences on Lots 67 - 77 of the development shall be limited to one-story.
- e) Residences on Lots 1-12 and 67 – 77 shall vary in design, massing, and roof pitch due to their visibility from Camino Tassajara. Residences on Lots 1-12 shall also be limited to one story.
- f) The rear and side yard fencing of lots adjacent to the protected wetlands, pedestrian staging area, and adjacent EBRPD lands shall be of an open-rail or open-wire design, and no more than three-feet in height.
- g) Each residential lot shall provide a minimum of two off-street parking spaces within an enclosed garage, and one additional off-street parking space for guests.
- h) Residential designs for corner lots shall include architectural features to provide a frontage appearance from both sides.

36. **Prior to recordation of the first Final Map**, the Applicant shall submit a proposed deed disclosure statement addressing this COA 36 for the review and approval of the CDD. This disclosure statement shall advise prospective buyers of residential lots that all residences within the subdivision are subject to the residence design standards listed in the condition above.

Residential Development Area Design

37. In order to preserve public access to the Pedestrian Staging Area, installation of a private entry gate at the intersection of Camino Tassajara and “A” Street shall be prohibited. Notation of this restriction shall be included on the approved Final Map.

38. The parcels intended to provide access to the Tassajara Hills Elementary School (Parcel-C, -L, and -M) and to the adjacent recreational areas (Parcel-D, -K) shall remain as access throughout the life of the development, and shall not be converted to or combined with residential lots. Notation of this restriction shall be included on the approved Final Map.

39. **Prior to recordation of the first Final Map**, the Applicant shall submit an on-street parking “fit plan” for all lots west of A Street, for review and approval of the CDD. The plan shall identify locations for on-street parking (consistent with minimum dimension requirements pursuant to Section 82-16.404(b) of the Off-Street Parking Ordinance) that can be accommodated when considering site distance, driveway cuts, fire hydrants, and other sidewalk/roadway improvements. The approved fit plan shall be included with the Final Plan for recordation.

40. Signs or red-painted curbs shall be located at the C Street frontages of Parcels-M, -L, and – B to discourage temporary parking for the dropping-off or picking-up of students from the adjacent elementary school.

Private Entry Gate

41. The use of a private entry gate is expressly prohibited. An exception shall be made for gates intended to control access along emergency vehicle access roads.

Community Benefit

42. **No later than five days after recordation of the first Final Map (1st Installment) and prior to issuance of the first building permit excluding models (2nd Installment)**, pursuant to Section 3.01 of the Development Agreement, the Applicant shall make the first of two installments for a non-refundable contribution of Four Million Dollars (\$4,000,000) (“\$4M Ag Contribution”) in an agricultural enhancement and preservation fund established by the County to support, develop, and implement a broad array of policies, programs, and other actions intended to enhance agriculture and to preserve open space, wetlands, parks, recreation, and other non-urban uses in the Tassajara Valley, with the second installment of the \$4M Ag Contribution being made prior to issuance of the first building permit (excluding models). Inflationary increases shall be based on any change in the Consumer Price Index for the San Francisco-Oakland-Hayward Combined Statistical Area (U.S. Bureau of Labor Statistics) (“**CPI**”) for the 12-month period ending on the December 31 immediately prior to the March 1 when the increase is effective. The timing and increments in which the Applicant shall provide the \$4M Ag Contribution and any CPI increases accrued on the contribution, shall be consistent with that which is stated in Section 3.01 (Preservation and Agricultural Enhancement Contribution) of the Development Agreement.
43. **Prior to issuance of the first building permit**, pursuant to Section 3.02 of the Development Agreement, the Applicant shall make a non-refundable contribution of Two Million-Five Hundred Thousand Dollars (\$2,500,000) to the County’s existing Livable Communities Trust Fund. The timing and increments in which the contribution is made shall be consistent with Section 3.02 (Contribution to Contra Costa Livable Communities Trust) of the Development Agreement.

Climate Action Plan Consistency

44. **Prior to CDD stamp-approval of plans for issuance of the first building permit**, the Applicant shall provide evidence (construction plan details/notes) that the proposed Project meets minimum applicable standards listed in Table-E.1 (Standards for CAP Consistency – New Development) of the County Climate Action Plan’s Appendix-E, as follows:
- a) All appliances and insulation installed by the Applicant in residential units shall be rated high efficiency.
 - b) All residences shall meet the standards to be solar ready as defined by the applicable provisions of the then-current California Building Code.
 - c) All garages attached to residences shall be pre-wired for EV charging stations.

Air Quality

45. During construction, the following air pollution control measures (consistent with BAAQMD’s Basic Construction Mitigation Measures) shall be implemented (**MM AIR-2**):
- 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 tracked-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 and surfaces shall be limited to 15 miles per hour.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes. 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 vehicle emissions evaluator.
- 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 were used.
- A publicly visible sign shall be posted with the telephone number and person to contact at the County of Contra Costa regarding dust complaints. This person shall respond and take corrective action within 2 business days of a complaint or issue notification. The Bay Area Air Quality Management District's phone number shall also be visible to ensure compliance with applicable regulations.

46. Off-road diesel-powered construction equipment greater than 50 horsepower shall meet United States Environmental Protection Agency Tier 4 off-road emissions standards to the extent feasible. The Project Applicant shall include in all construction contracts a clause reflecting this requirement. **(MM AIR-3)**

47. **Prior to CDD stamp-approval of plans for issuance of building permits**, the following measures to reduce greenhouse gas emissions shall be implemented to the extent feasible **(MM AIR-6)**:

- a) Only natural gas hearths shall be installed throughout the development.
- b) Install solar or tankless water heaters throughout the development.
- c) Install energy-efficient ceiling/whole-house fans.
- d) Install on-site generation of renewable energy, such as solar to meet a minimum of 10 percent of the Project's total energy demand.
- e) Comply with California Green Building standards to reduce both indoor and outdoor water consumption.

Biology

48. All of the biological mitigations listed below shall be included as a note on each approved Final Map.

Congdon's Tarplant and San Joaquin Spearscale

49. Congdon's Tarplant and San Joaquin Spearscale. In order to offset impacts to Congdon's Tarplant and San Joaquin Spearscale, the Project Applicant shall implement the following measures **(MM BIO-1a)**:

- a) Populations of special-status species shall be avoided to the maximum degree practical. If avoidance is not practicable, the Ground Disturbance Areas should be reviewed to see if it can be feasibly adjusted to avoid the special-status plants while still meeting the Project's objectives.

- b) A Rare Plant Mitigation and Monitoring Plan shall be prepared and submitted to the County and CDFW **within a minimum of 30 days prior to the start of ground-disturbing related activities.**
- c) **Prior to disturbing any area that supports Congdon's Tarplant or San Joaquin Spearscale**, a qualified botanist shall collect the seeds or oversee the seed collection of both species by a qualified seed collection crew. This seed shall be stored either by Monk and Associates, or by a native seed company, until construction is complete and the Special-Status Plant Mitigation Area(s), on the Southern Site, have been identified, prepared and the collected seed can be distributed. The seeds of Congdon's Tarplant and San Joaquin Spearscale shall be collected at the appropriate time of year. A percentage of the collected seed shall remain in storage for subsequent, supplemental seeding if deemed necessary, to ensure successful replanting of Congdon's Tarplant and San Joaquin Spearscale in the special-status plant mitigation areas. The remaining amount of collected seed of Congdon's Tarplant and San Joaquin Spearscale shall be planted at the appropriate time of year (late-fall months) in suitable areas within the Conservation Easement area on the Southern Site.

Congdon's Tarplant and San Joaquin Spearscale typically grow in valley and foothill grassland on alkaline, clay soils at 300 meters or lower in elevation. Common associates that co-occur on-site with these special-status species are a mix of annual grassland species that demonstrate some amount of mesic influence including Italian ryegrass (*Festuca perennis*), Mediterranean barley (*Hordeum marinum* ssp. *gussoneanum*), spiny cocklebur (*Xanthium spinosum*), hyssop loosestrife (*Lythrum hyssopifolia*), yellow starthistle (*Centaurea solstitialis*), and bristly ox-tongue (*Helminthotheca echioides*). Common halophytic associates of Congdon's Tarplant and San Joaquin Spearscale include hastate orache (*Atriplex prostrata*), Boccone's sand spurrey (*Spergularia bocconi*), alkali mallow (*Malvella leprosa*), and saltgrass (*Distichlis spicata*) that co-occur with the special-status species on-site. According to the CNDDDB (2015), Congdon's Tarplant has often been found on the following soil series: Clear Lake Clay, Diablo Clay, Cropley Clay, and Conejo Clay Loam, whereas San Joaquin Spearscale occurs on high clay, alkaline soils such as Pescadero Clay. Most occurrences of these species have occurred on flat areas, depressions, swales and low hills where high clay content soils are present (CNDDDB 2015). The most suitable special-status plant mitigation area on the Southern Site occurs on Clear Lake Clay (0-2% slopes) and Pescadero Clay Loam (0-2% slopes).

- d) To preserve the seedbank of both common, special-status and federally listed plant species, the upper 3 inches of topsoil or to the depth of the organic horizon (A Horizon) shall be scalped and temporarily stockpiled in uplands within the work area separately from excavated sub-soils. All other excavated material shall be separately stored in upland habitat areas. Upon completion of grading and recontouring, the organic horizon soil shall be redistributed as a topcoat over the disturbed areas that shall not be developed to disseminate the original seed bank.
- e) The designated special-status plant mitigation area shall be fenced to exclude humans and cattle during the first three years of establishment to ensure germination and seed set to continue the population. Once it has been determined that the population is successfully established, the fence may be removed so that seasonal grazing of the population can be managed within the special-status plant mitigation area. A Grazing Management Plan shall be prepared to allow for the continued benefit of special-status species. Appropriate grazing

measures shall ensure that Congdon's Tarplant and San Joaquin Spearscale shall not be outcompeted by non-native Mediterranean grass species.

- f) The Applicant's qualified botanist shall conduct annual monitoring of the transplanted populations for a five year period as outlined in the Rare Plant Mitigation and Monitoring Plan, and shall prepare annual monitoring reports to document the success or failure the transplanting effort. These reports shall be submitted to Contra Costa County Department of Conservation and Development and CDFW no later than December 1 of each monitoring year.

California Tiger Salamander

50. To ensure that impacts to approximately 58.47 acres of potential upland California Tiger Salamander over-summering habitat are offset, all permanent impacts shall be mitigated as follows (**MM BIO-1b**):

- a) The Applicant proposes to preserve 175.4 acres of the Southern Site via a Conservation Easement as habitat mitigation (as approved by USFWS). This provides a 3:1 mitigation ratio to satisfy the resource agency mitigation requirements for impacts to potential upland California Tiger Salamander over-summering.

The Mitigation Land shall be protected in perpetuity via a recorded conservation easement or other appropriate legal mechanism that shall be managed for the benefit of the California Tiger Salamander and other special-status species. A Habitat Management Plan shall be incorporated into the conservation easement deed as an exhibit and shall detail management and maintenance goals for the Mitigation Land. In addition, the Habitat Management Plan would detail the permanent funding source for the management of the Mitigation Lands and shall list the "Allowed and Prohibited Uses" of the conservation easement areas.

- b) The Mitigation Land managed for California Tiger Salamander shall be contiguous with other dedicated open space areas to the west as shown in Figure 4 of the Biological Resources Analysis prepared by Monk & Associates, dated January 5, 2016. The connectivity of the proposed Mitigation Land to other dedicated open space areas further increases the value of this dedicated Mitigation Land since this creates a protected corridor that includes several watersheds.
- c) The Applicant shall obtain an incidental take permit from USFWS and CDFW prior to Project construction, and implement any additional requirements identified by USFWS and CDFW as necessary to protect the California Tiger Salamander. Any final mitigation compensation ratio established by the CDFW and USFWS for Project-related impacts to listed species shall also become Contra Costa County "Conditions of Approval." Such mitigation ratios or prescriptions shall be set forth in the Biological Opinion prepared by USFWS during the Section 7 consultation by and between the USACE and USFWS.
- d) Additional avoidance and minimization measures to ensure that no California Tiger Salamanders are adversely impacted by Project construction activities include:
 - Education Program: An education program shall be conducted by a qualified biologist to explain the endangered species concerns to contractors working at the Project Site. This education/training program shall include a description of the California Tiger

Salamander and its habitat, a review of the Endangered Species Act and the federal and state listing of the salamander, the general protection measures to be implemented to protect the salamander and minimize take, and a delineation of the limits of the work area.

- **Biological Monitoring:** A USFWS/CDFW-approved biologist shall be on-site during grading activities, or other earth-moving activities when amphibians could be unearthed. The biological monitor shall be available to stop work should any California Tiger Salamanders be observed in the Project Site work areas.

California Red-legged Frog

51. The following mitigation measure shall be implemented to ensure that impacts to approximately 58.47 acres of potential California Red-legged Frog upland dispersal/migration habitat shall be appropriately offset. The mitigation shall include **(MM BIO-1c)**:

- a) The Applicant proposes to preserve 175.4 acres of the Southern Site via a Conservation Easement as habitat mitigation (as approved by USFWS). This provides a 3:1 mitigation ratio to satisfy the resource agency mitigation requirements for potential impacts to California Red-legged Frog upland dispersal/migration habitat.
- b) The Mitigation Land shall be contiguous with other dedicated open space areas to the west, including the Alamo Creek Kawar Valley Open Space, and the Hidden Valley Open Space associated with the Windemere development (as shown in Figure 4 of the Biological Resources Analysis prepared by Monk & Associates, dated January 5, 2016) that shall provide connectivity of the proposed Mitigation Land to other dedicated open space areas that support California Red-legged Frog populations.
- c) This Mitigation Land shall be managed in perpetuity for the benefit of California Red-legged Frog. A Conservation Easement, or other appropriate legal mechanism, shall be recorded to ensure that the Mitigation Lands shall be protected in perpetuity. As required by MM BIO-1b, a Habitat Management Plan shall be incorporated into the easement deed as an exhibit and shall detail management and maintenance goals for the Mitigation Land, including recreational guidelines, livestock grazing guidelines, and other management efforts that shall benefit the California Red-legged Frog. In addition, the Habitat Management Plan would detail the funding source for the management of the Mitigation Land and shall list the “Allowed and Prohibited Uses” of the conservation easement area.
- d) The USFWS’s Recovery Plan for the California Red-legged Frog states that populations are “most likely to persist where multiple breeding areas are embedded within a matrix of habitats used for dispersal. The primary constituent elements for California Red-legged Frogs are aquatic and upland areas where suitable breeding and non-breeding habitat is interspersed throughout the landscape and is interconnected by unfragmented dispersal habitat” (USFWS 2002). Thus, the proposed Mitigation Land shall serve to protect and preserve important California Red-legged Frog populations in this area of Contra Costa County. It is important to note that the Project Site is located in the East San Francisco Bay—Core Area #16—in the USFWS’s Recovery Plan for the California Red-legged Frog, and the Project Site represents a “priority watershed” for focused recovery efforts. By preserving 175.4 acres of Mitigation Land that shall be managed for the benefit of this species, the Project shall satisfy some of the goals detailed in the USFWS’s Recovery

Plan for the California Red-legged Frog and thereby contribute to the recovery of this species.

- e) Obtain an incidental take permit from USFWS prior to Project construction and implementing any additional requirements identified by USFWS as necessary to protect the California Red-legged Frog.
- f) Additional avoidance and minimization measures to ensure that no California Red-legged Frogs are adversely impacted by Project construction activities include:
 - Preconstruction Survey: In order to minimize and avoid any impacts to the federally listed threatened California Red-legged Frog, a qualified biologist shall conduct preconstruction surveys for this species within the areas of impact prior to the commencement of any work on the Project Site. Any California Red-legged Frogs that are found during these surveys shall be salvaged and relocated to California Red-legged Frog habitat within the Mitigation Land. No salvage and/or relocation shall occur until such time that the Applicant receives incidental taking authorization from the USFWS. Proof of an incidental take permit (such as a Biological Opinion) from the USFWS shall be provided to Contra Costa County Department of Conservation and Development prior to any earth-moving on the Project Site.
 - Exclusion Fencing: Wildlife exclusion fencing shall be installed around suitable aquatic habitats (Tassajara Creek) adjacent to proposed impacted areas to prevent the California Red-legged Frog from entering areas of impact. This fence shall be installed prior to the time any site grading or other construction-related activities are implemented. The fence shall remain in place during site grading or other construction-related activities. Wildlife exclusion fencing shall consist of a 4-foot wall of 0.25-inch welded mesh (not woven wire), galvanized wire. The fence shall be buried along the bottom margin 4 inches into the ground. The next approximate 3 feet of fencing above the ground shall be anchored to staking with wire. Finally, the top 6 inches shall be bent over in a semi-circle towards the outside of the fence to ensure that the fence cannot be climbed.
 - Education Program: An education program shall be conducted by a qualified biologist to explain the endangered species concerns to contractors working at the Project Site. This education/training program shall include a description of the California Red-legged Frog and its habitat, a review of the Endangered Species Act and the federal listing of the frog, the general protection measures to be implemented to protect the frog and minimize take, and a delineation of the limits of the work area.
 - Biological Monitoring: A USFWS-approved biologist shall be on-site during grading activities, or other earth-moving activities when amphibians could be unearthed. The biological monitor shall be responsible for ensuring that the wildlife exclusion fencing is not compromised, and shall be available to stop work should any California Red-legged Frogs be observed in the Project Site work areas. Each morning all exclusion fencing shall be patrolled for frogs that may be trapped against the fence.
 - Best Management Practices: All trash that might attract predators to the Project Site shall be properly contained and removed from the site and disposed of regularly. All construction debris and trash shall be removed from the site when construction activities

are complete. All fueling and maintenance of equipment and vehicles, and staging areas shall be at least 20 meters from creek channels, wetlands, and tributaries. The construction personnel shall ensure that contamination of California Red-legged Frog habitat does not occur and shall have a plan to promptly address any accidental spills.

San Joaquin Kit Fox

52. To ensure that impacts to approximately 58.47 acres of potential San Joaquin Kit Fox migration/dispersal habitat are offset, the following mitigation measures are proposed (**MM BIO-1d**):

- a) The Applicant proposes to preserve 175.4 acres of the Southern Site via a Conservation Easement as habitat mitigation (as approved by the USFWS). This provides a 3:1 mitigation ratio to satisfy the resource agency mitigation requirements for impacts to potential upland migration/dispersal habitat for the San Joaquin Kit Fox. The Mitigation Land that shall be preserved in perpetuity as part of the Project consists of grassland habitat that includes numerous rodent burrows and supports a potential prey base for the San Joaquin Kit Fox. Perpetual preservation and management of the Mitigation Land for the benefit of the San Joaquin Kit Fox shall help ensure that viable habitat is maintained for this species. The Mitigation Land shall be contiguous with other dedicated open space areas to the west, as shown in Figure 4 of the Biological Resources Analysis prepared by Monk & Associates, dated January 5, 2016, further benefitting this species.
- b) Should the USFWS determine that the Project may adversely affect the San Joaquin Kit Fox, the Applicant shall comply with any additional requirements determined to be necessary through a formal Section 7 consultation for potential impacts to potential San Joaquin Kit Fox migration habitat.
- c) The following avoidance and minimization measures shall be implemented to ensure that no San Joaquin Kit Fox are adversely impacted by Project construction activities:
 - Education Program: An employee training program shall be conducted before groundbreaking to explain the Federal Endangered Species Act and any endangered species concerns to contractors working in the area.
 - Preconstruction Survey: Qualified biologists shall conduct preconstruction den surveys within the Ground Disturbance Areas no more than 14 days prior to grading activities to ensure that potential kit fox dens are not disrupted. If “potential dens” are located, infrared camera stations shall be set up and maintained for 3 consecutive nights at den openings to determine the status of the potential dens. If no kit fox is found to be using the den during this timeframe, the grading activities can proceed unhindered. However, if a kit fox is found using a den site within an area of influence of the grading activities, the USFWS shall be promptly notified.
 - Vehicle Restrictions: Prior to initiating grading activities, the vehicle and equipment access routes and work area shall be delineated using construction fencing. This shall minimize the Project-related disturbance to potential San Joaquin Kit Fox habitat to the maximum extent feasible. During the grading activities, all Project-related vehicle traffic shall be restricted to established roads or access routes, and shall observe a

20-mile-an-hour speed limit within the work areas, except on County roads and highways.

- **Biological Monitoring:** A biological monitor shall be present during all grading activities that could result in injury to San Joaquin Kit Fox. The biologist shall have the authority to halt construction in the impacted area(s), if necessary, to protect the kit fox. If San Joaquin Kit Fox are identified in the work area at any time, the USFWS and/or CDFW shall be notified and consulted before work activities resume.
- **Best Management Practices:** All trash items shall be removed from the Project Site's disturbance areas each day to reduce the potential for attracting San Joaquin Kit Fox predators. Contractors shall be prohibited from bringing firearms and pets to the job site. To prevent harm to San Joaquin Kit Fox, any steep-walled holes and/or trenches excavated for the proposed development Project shall be completely covered at the end of each workday, or escape ramps shall be provided to allow any entrapped animals to escape unharmed. All pipe sections stored on the Project Site overnight that are 4 inches in diameter or greater shall be inspected for San Joaquin Kit Fox before the pipes are moved or buried.
- **Exclusion Fencing:** Exclusion fencing shall be installed prior to the time any site grading or other construction-related activities are implemented. The fence would remain in place during site grading or other construction-related activities. Exclusion fencing shall be installed as described above.

Burrowing Owl

53. Based on the number of records for this species on-site and in the Project vicinity, the high density of ground squirrel burrows, and the habitats found on the Project Site, surveys for Burrowing Owls shall be conducted within any areas of the Project Site that will be disturbed by Project activities, including a 150-meter buffer. Burrowing Owl surveys conducted according to the methodology prescribed by CDFW in their 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) are more likely to be accepted by CDFG. The prescribed survey methodology is included in this document. The mitigation measures shall include **(MM BIO-1e)**:

- a) Breeding season surveys shall be conducted by a qualified biologist as per the CDFW Staff Report (CDFG 2012) for Western Burrowing Owl when Project construction is proposed to begin and again 14 days prior to breaking ground. In accordance with the 2012 Staff Report, four site surveys need to be completed. One site survey shall occur between February 15 and April 15, and a minimum of three site surveys, at least three weeks apart, between April 15 and July 15 must be conducted. At least one of the three site surveys between April 15 and July 15 must occur after June 15.

Non-breeding season surveys (September 1 through January 31) may provide information about site occupancy but this should not substitute for breeding season surveys. Should non-breeding season surveys be warranted, four surveys spread evenly throughout the non-breeding season should occur according to the same protocol as breeding season surveys.

The Staff Report 2012 states that take avoidance (preconstruction) surveys should be conducted 14 days prior or less to initiating ground disturbance. As Burrowing Owls may recolonize a site after only a few days, time lapses between Project activities trigger

subsequent take avoidance surveys, including but not limited to a final survey conducted within 24 hours prior to ground disturbance to ensure absence. If no owls are found during these surveys, no further surveys shall be necessary.

- b) Burrowing Owl surveys should be conducted by walking suitable habitat in areas within 150 meters (approx. 500 feet) of the Ground Disturbance Areas. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the Project Site that may be impacted by factors such as noise and vibration (heavy equipment) during Project construction. Pedestrian survey transects should be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be 7 meters to 20 meters and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. To effectively survey large projects (100 acres or larger), two or more surveyors should be used to walk adjacent transects. Poor weather may affect the surveyor's ability to detect Burrowing Owls thus, avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. To avoid impacts to owls from surveyors, owls and/or occupied burrows should be avoided by a minimum of 50 meters (approximately 160 feet) wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows should be avoided during all seasons.
- c) If Burrowing Owls are detected on the Project Site, the following restricted activity dates and setback distances are recommended per the Staff Report (CDFG 2012). From February 1 through October 15, low disturbance and medium disturbance activities should have a 200 meter buffer while high disturbance activities should have a 500 meter buffer from occupied nests. From October 16 through March 31, low disturbance activities should have a 50 meter buffer, medium disturbance activities should have a 100 meter buffer, and high disturbance activities should have a 500 meter buffer from occupied nests. No earth-moving activities or other disturbance should occur within the afore-mentioned buffer zones of occupied burrows. These buffer zones should be fenced as well. If Burrowing Owls are found in the Project Site, a qualified biologist shall delineate the extent of Burrowing Owl habitat.
- d) The Mitigation Land that shall be preserved in perpetuity as part of the proposed Project as mitigation for special-status species supports grassland habitat that includes numerous rodent burrows that provide nesting habitat, as well as foraging habitat for Western Burrowing Owl. The Mitigation Land shall more than adequately offset any impacts to suitable Burrowing Owl habitat should this species be found during surveys. The preservation of Western Burrowing Owl habitat would fully compensate for impacts to potential Western Burrowing Owl habitat resulting from the Project.

American Badger

54. To ensure that potential impacts to American Badger migration and dispersal habitat are avoided or offset, the following mitigation measures shall be implemented (**MM BIO-1f**):
- a) A preconstruction survey for the American Badger shall be conducted within the Ground Disturbance Areas within 7 days prior to grading thereon. Surveys shall be conducted by a wildlife biologist with experience identifying badger burrows. Survey methods would include conducting parallel transects through the grassland community looking for badger burrows. Any badger burrow identified shall be mapped with a global positioning system (GPS) and shown on all Project development plans and grading plans.

- b) If active badger burrows are identified within the Ground Disturbance Areas, they shall be avoided to the extent feasible. If avoidance is not feasible, a biologist should determine if the burrow is being used for breeding. If young are determined to be present, the burrow shall be avoided until young vacate the burrow. If the burrow is being used as refugia by the badger, as approved by CDFW, a one-way eviction door shall be installed to passively relocate the badger from its burrow. If it digs back into the burrow, as approved by CDFW, live traps shall be established at the burrow entrances to trap and remove badgers from the area of impact.
- c) The Project includes the perpetual preservation of Mitigation Land that shall be preserved in perpetuity to mitigate impacts to California Tiger Salamander, California Red-legged Frog, and San Joaquin Kit Fox. Since the American Badger has similar habitat requirements as the kit fox, the Mitigation Land would also fully mitigate any potential impacts to the American Badger.

Alameda Whipsnake

55. To ensure that any significant impacts to Alameda Whipsnake are avoided, the following mitigation measures shall be implemented (**MM BIO-1g**):
- a) Wildlife exclusion fencing shall be installed around the work areas to prevent snakes and other wildlife from entering the construction area. This fence would be installed prior to the time any site grading or other construction-related activities commenced. The fence would remain in place during site grading or other construction-related activities. Wildlife exclusion fencing shall consist of a 4-foot wall of quarter-inch mesh, galvanized, welded wire (i.e., hardware cloth—it cannot be woven wire). If the fence cannot be buried along the bottom edge in a 6-inch deep trench, then the bottom 6 inches of fence shall be landscaped stapled every 3 inches along the entire run of fence. Any voids in the soil beneath the fence shall be filled. The first 3 feet of fencing above the ground would be anchored to staking with wire. Finally, the top 6 inches of wire shall be bent over in a semi-circle towards the outside of the fence to ensure that the fence cannot be climbed.
 - b) Mitigation land set-aside as part of MM BIO-1b to mitigate impacts to California Tiger Salamander, California Red-legged Frog, and San Joaquin Kit Fox would also provide appropriate mitigation for impacts to potential Alameda Whipsnake dispersal habitat.
 - c) The Applicant shall obtain an incidental take permit from USFWS prior to Project construction and shall implement any additional requirements identified by USFWS as necessary to protect the Alameda Whipsnake. By obtaining “incidental take” authorization from the USFWS, this impact would be mitigated to a less than significant level.

Western Pond Turtle

56. To ensure that impacts to western pond turtle upland nesting habitat are avoided or offset, the following mitigation measures shall be implemented (**MM BIO-1h**):
- a) Prior to commencement of any earth-moving activity on-site, all potential suitable Western Pond Turtle upland nesting habitat shall be surveyed. This shall include all areas within 100 feet of Tassajara Creek on the Northern Site. Preconstruction surveys for turtles and their nests shall be conducted 30 days prior to any grading activities.

- b) If nest sites are located adjacent to a proposed work area, the nest site plus a 50-foot buffer around the nest site shall be fenced to avoid impacts to the eggs or hatchlings which overwinter at the nest site. In addition, a clear path (buffer area) between the nest site and adjacent creek or ponds shall be left undisturbed and demarcated with orange construction fencing so that dispersing young turtles can migrate to the creek without being deterred/impacted by construction/earth-moving activity.
- c) If nest(s) are located during surveys, moth balls (naphthalene) should be sprinkled around the vicinity of the nest (no closer than 10 feet) to mask human scent and discourage predators.
- d) Construction at the nest site and within the 50-foot buffer area and path to the off-site waterway shall be delayed until the young leave the nest (this could be a period of months) or as otherwise advised and directed by CDFW, the agency responsible for overseeing the protection of the Western Pond Turtle.
- e) If CDFW allows translocation of any nestling pond turtles, this shall be completed by a qualified biologist under the direction of CDFW.

Nesting Raptors

57. To ensure that impacts to nesting raptors are avoided or offset, the following mitigation measures shall be implemented (**MM BIO-1i**):

- a) In order to avoid impacts to nesting raptors, nesting surveys shall be conducted by a qualified raptor biologist prior to commencing with earth-moving or construction work, if this work would commence between February 1 and August 31. The raptor nesting surveys shall include examination of all trees within 500 feet of the Ground Disturbance Areas on the Northern Site.
- b) If nesting raptors are identified during the surveys, the dripline of the nest tree must be fenced with orange construction fencing (provided the tree is on the Project Site), and a 300-foot radius around the nest tree must be staked with orange construction fencing. If the tree is located off the Project Site, then the buffer shall be demarcated per above where the buffer occurs on the Project Site. The size of the buffer may be altered if a qualified raptor biologist conducts behavioral observations and determines the nesting raptors are well acclimated to disturbance. If this occurs, the raptor biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to the nesting raptors. No construction or earth-moving activity shall occur within the established buffer until it is determined by a qualified raptor biologist that the young have fledged (left the nest) and have attained sufficient flight skills to avoid Project construction zones. This typically occurs by August 1. This date may be earlier or later, and would have to be determined by a qualified raptor biologist. If a qualified biologist is not hired to watch the nesting raptors, then the buffers shall be maintained in place through the month of August and work within the buffer can commence on September 1.
- c) Two surveys may be required to address both early and later nesting raptor species. Great Horned Owls and American Kestrels begin nesting in February while Northern Harriers, Red-tailed Hawks, and Red-shouldered Hawks begin nesting in early April. Thus, an early

survey should be conducted in February if earth-moving work or construction is proposed to commence between February 1 and April 1. If construction has not commenced by the end of March, a second nesting survey shall be conducted in April/May, whichever month is within 30 days of the commencement of construction. If construction would commence after May but before September 1, then the second survey shall be conducted within the 30-day period prior to site disturbance.

- d) If the early nesting survey identifies a large stick or other type of raptor nest that appears inactive at the time of the survey, but there are territorial raptors evident in the nest site vicinity, a protection buffer (as described above) shall be established around the potential nesting tree until the qualified raptor biologist determines that the nest is not being used. In the absence of conclusive observations indicating the nest site is not being used, the buffer shall remain in place until a second follow-up nesting survey can be conducted to determine the status of the nest and eliminate the possibility that the nest is utilized by a late-spring nesting raptor (for example, Red-tailed Hawk). This second survey shall be conducted even if construction has commenced. If during the follow-up late season nesting survey a nesting raptor is identified utilizing the nest, the protection buffer shall remain until it is determined by a qualified raptor biologist that the young have fledged and have attained sufficient flight skills to avoid Project construction zones. If the nest remains inactive, the protection buffer can be removed and construction and earth-moving activities can proceed unrestrained.

Nesting Birds

58. To ensure that impacts to nesting passerine birds and nesting special-status birds are avoided or offset, the following mitigation measures shall be implemented (**MM BIO-1j**):

- a) A nesting survey shall be conducted within all Ground Disturbance Areas and a surrounding 500-foot buffer 15 days prior to commencing construction/grading or tree removal activities, if this work would commence between March 1 and September 1. If special-status birds (such as Loggerhead Shrike) are identified nesting on the Project Site, a 50-foot radius around the nest must be staked with bright orange construction fencing. No construction or earth-moving activity shall occur within this 50-foot buffer until it is determined by a qualified biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid Project construction zones. This typically occurs by August 1. This date may be earlier than August 1, or later, and would have to be determined by a qualified ornithologist.
- b) If common (not special-status) passerine (perching birds such as Anna's Hummingbird [*Calypte anna*] and Mourning Dove [*Zenaida macroura*]) birds are identified nesting on the Project Site, grading or tree removal activities in the vicinity of the nest shall be postponed until it is determined by a qualified ornithologist that the young have fledged and have attained sufficient flight skills to leave the area. The size of the nest protective buffer required to ensure that the Project does not result in take of nesting birds, their eggs or young shall be determined by a qualified ornithologist. Typically, most passerine birds can be expected to complete nesting by June 15, with young attaining sufficient flight skills by early July.

Special-Status Bats

59. In order to avoid impacts to roosting special-status bats, a biologist shall survey trees and buildings to be disturbed by Project activities, including those near the proposed Future Equestrian Staging Area, 15 days prior to commencing with any removal or demolition. All bat surveys shall be conducted by a biologist with known experience surveying for bats. If no special-status bats are found during the surveys, then no further action would be required.

If special-status bat species are found on the Project Site, a determination shall be made if there are young bats present. If young are found roosting in any tree or building, impacts to the tree or building shall be avoided until the young have reached independence. A non-disturbance buffer fenced with orange construction fencing shall also be established around the maternity site. The size of the buffer zone shall be determined by a qualified bat biologist at the time of the surveys. If adults are found roosting in a tree or building on the Project Site but no maternal sites are found, then the adult bats can be flushed or a one-way eviction door can be placed over the tree cavity (or building access opening) prior to the time the tree or building in question would be removed or disturbed. No other mitigation compensation would be required.

Waters of the U.S. and State

60. To ensure that impacts to waters of the U.S. and State offset, the following mitigation measures will be implemented (**MM BIO-3**):
- a) Obtain a Section 404 permit from the USACE and a Section 401 permit from the RWQCB prior to Project construction and implementing any additional mitigation measures identified by the USACE or RWQCB as part of these permits.
 - b) At a minimum, all impacts to waters of the U.S. and State would be compensated for via creation and preservation of new waters of the U.S. and State at a minimum of 2:1 (creation to impact) ratio or as otherwise specified in permitting conditions imposed by the USACE and RWQCB. The Applicant proposes to create at least 0.80 acre of new wetland to mitigate for Project-related impacts to waters of the U.S. and State.
 - c) The Applicant is proposing to compensate for impacts to waters of the U.S. and State by creating wetlands on the Southern Site. A detailed Wetland Mitigation Plan will be prepared for the Project that shows the location, materials, and construction methods for creation of the wetlands. The Wetland Mitigation Plan will include specific success criteria and performance standards to measure the success of the mitigation wetlands. The success of the mitigation wetlands will be based upon how well it replaces the functions and services provided by seasonal wetlands that will be impacted by the Project. To be judged successful, the created wetlands must support a self-sustaining hydrophytic plant community that includes representative wetland taxa (i.e., wetland plant genera and species). A 5-year monitoring program will be implemented to monitor the progress of the wetland mitigation toward the established goals. At the end of each monitoring year, an annual report will be submitted to the USACE, RWQCB, and other resource agencies. This report will document the hydrological and vegetative condition of the mitigation wetland(s) and will recommend remedial measures as necessary to correct deficiencies.
 - d) When implemented, creation of the wetlands (or purchase of wetland mitigation bank credits) will fully compensate for impacts to regulated waters of the U.S. (and State)

resulting from construction of the Project. The Mitigation Land on the Southern Site will be preserved in perpetuity via recordation of a conservation easement, or other appropriate legal mechanism, ensuring that the mitigation wetlands are located within the permanently preserved open space area that will be maintained in perpetuity.

- e) In lieu of creating waters of the U.S. and State on the Project Site, the Applicant may also choose to purchase mitigation credits from a qualified wetland mitigation bank as approved in advance by the USACE and RWQCB.
- f) Grading impacts associated with the creation of mitigation wetlands on the Southern Site shall also be minimized by the use of Best Management Practices to protect preserved wetlands and to ensure water quality in wetlands and other waters within the watershed. These practices can include installing orange construction fencing, hay or gravel waddles, and other protective measures. During Project construction, a biological monitor shall be on-site to monitor the integrity of preserved wetlands and other waters.

Cultural Resources

- 61. If a potentially significant cultural resource is encountered during Project construction or related activities, all activities within a 50-foot radius of the find shall cease until a qualified archaeologist evaluates the find for its significance in terms of CEQA criteria. The Applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The archaeologist shall make recommendations concerning appropriate measures that will be implemented to protect the resource, including, but not limited to, excavation and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Cultural resources could consist of, but are not limited to, stone, wood, or shell artifacts, structural remains, privies, or historic dumpsites. Any previously undiscovered resources found during construction within the Project Site shall be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms. **(MM CUL-1)**
- 62. A qualified cultural resources monitor shall be on-site during all grading and excavation activities. In the event that fossils or fossil-bearing deposits are discovered during grading or construction of the Project, excavations within 50 feet of the find shall be temporarily halted until the discovery is examined by a qualified paleontologist, in accordance with the applicable Society of Vertebrate Paleontology standards, and assessed for significance under CEQA. The Applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the find is determined to be significant and if avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards. **(MM CUL-3)**
- 63. In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5; Health and Safety Code Section 7050.5; Public Resources Code Section 5097.94 and Section 5097.98 must be followed. In addition, if during the course of grading or construction there is an inadvertent discovery of any human remains, the following steps shall be taken **(MM CUL-4)**:
 - a) There shall be no further excavation or disturbance within 50 feet of the find until the County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the Coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission

(NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the “most likely descendant” (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.

- b) 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 either in accordance with the recommendations of the most likely descendant or on the Project Site in a location not subject to further subsurface disturbance:
- The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission.
 - The descendant identified fails to make a recommendation.
 - The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Geology, Soils, Seismicity

64. Prior to CDD stamp-approval of plans for issuance of the first grading permit, the Project Applicant shall submit a design-level Geotechnical Investigation to Contra Costa County for review and approval of the County Peer Review Geologist. The investigation shall be prepared by a qualified engineer and identify grading and building practices necessary to achieve compliance with the latest adopted edition of the California Building Standards Code’s geologic, soils, and seismic requirements. The measures identified in the approved report shall be incorporated into the Project plans. **(MM GEO-1)**

A deposit of \$750 shall be submitted along with the Geological Investigation report required above, to cover the cost of the County Peer Review Geologist’s review.

65. Prior to recordation of the first Final Map, the Applicant shall submit a proposed deed disclosure statement to address this COA 65 for the review and approval of the CDD. This disclosure statement shall acknowledge the CDD-approved design-level geotechnical investigation by title, author (firm), and date, calling attention to approved recommendations and noting that the report is available from the seller.

Hazards and Hazardous Materials

66. Prior to the demolition of any on-site structure constructed prior to 1978, or any structure suspected to contain asbestos or lead containing materials, the property owner or Applicant shall retain a qualified contractor to determine the presence or absence of asbestos-containing materials or lead-based paint. If either material is found to be present, the property owner or Applicant shall retain a certified hazardous waste contractor to properly remove and dispose of all materials containing asbestos or lead paint in accordance with applicable federal and state laws and regulations. The property owner or Applicant shall

submit documentation to Contra Costa County demonstrating that this contractor has been retained as part of the demolition permit application. Upon completion of removal and disposal of materials, the Project Applicant shall provide documentation to Contra Costa County reasonably demonstrating that these activities were successfully completed.

Hydrology and Water Quality

67. **Prior to recordation of the first Final Map**, the DCD shall verify that the Applicant has prepared a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the requirements of the statewide Construction General Permit. The SWPPP shall be designed to address the following objectives: (1) all pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity are controlled; (2) where not otherwise required to be under a Regional Water Quality Control Board permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated; (3) site Best Management Practices (BMPs) are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity; and (4) stabilization BMPs installed to reduce or eliminate pollutants after construction are completed. The SWPPP shall be prepared by a qualified SWPPP developer. The SWPPP shall include the minimum BMPs required for the identified Risk Level. BMP implementation shall be consistent with the BMP requirements in the then most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Stormwater Quality Handbook Construction Site BMPs Manual. **(MM HYD-1)**

Noise

68. To reduce potential construction noise impacts, the following multi-part mitigation measures shall be implemented for the Project **(MM NOI-1a)**:

- The construction contractor shall ensure that all internal combustion engine-driven equipment are equipped with mufflers that are in good condition and appropriate for the equipment.
- The construction contractor shall locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction disturbance area. In addition, the Project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the Project Site.
- The construction contractor shall prohibit unnecessary idling of internal combustion engines.
- The construction contractor shall locate, to the maximum extent practical, on-site equipment in staging areas to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the Project Site during all Project construction.
- For any construction work associated with implementation of the project that would occur within the City of San Ramon (such as the potential recycled water pipeline installation), such activities shall be limited to Monday through Friday, prior to 7:30 a.m. and after 7:00 p.m. on each day and on Saturdays and Sundays, prior to 9:00 a.m. and after 6:00 p.m.
- All construction activities associated with implementation of the project that will occur within the jurisdiction of Contra Costa County shall be limited to the hours of 7:30 a.m. to

5:30 p.m., 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:

<https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/federal-holidays/#url=2019>

California holidays:

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

- **At least 10 days prior to the issuance of any grading permit**, 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 or dust 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 any 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

Northern 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 Contra Costa County Department of Conservation and Development.

69. All proposed residential units located within 216 feet of the centerline of Camino Tassajara shall include an alternate form of ventilation, such as an air conditioning system, in order to ensure that windows can remain closed for a prolonged period of time. The building plans approved by the County shall reflect this requirement. **(MM NOI-1b)**
70. A sound wall shall be constructed along the Camino Tassajara frontage and the rear boundary of Lots 67-77, as designed and deemed necessary by an acoustical specialist, to reduce the noise levels of all outdoor areas on residential lots within 216 feet of the centerline of Camino Tassajara, to a level of 60 dBA L_{dn} or lower. Prior to issuance of a building permit for the sound wall, proposed materials and color palettes shall be submitted for review and approval by the County. The sound wall shall be constructed prior to occupancy of any residence on a lot that is within 216 feet of the centerline of Camino Tassajara.

Transportation and Traffic

71. The Project Applicant shall pay the applicable per lot Tri-Valley Transportation Development (TVTD) Fees, which shall serve as partial mitigation for the impact to freeway segments. The fees contribute to the construction of planned freeway improvements, including HOV lanes, auxiliary lanes, interchange improvements as well as other regional transportation improvements, including (among others) the BART extension to Livermore. Impact fees are due at time of issuance of building permits. Payment of these fees would **partially mitigate** the incremental impact. **(MM TRANS-1)**
72. **Prior to the issuance of the first building permit**, the Project Applicant shall fund the optimization of the signal timing at the intersection of Camino Tassajara and Oak Gate Drive-Lawrence Road (Intersection #5). This will require signal coordination with Intersection #4: Camino Tassajara and Hansen Lane-Diablo Vista Middle School Driveway. Both intersections are under the jurisdiction of the Town of Danville. Modifications to signal timing shall be reviewed by and meet the approval of the Town of Danville and Contra Costa Public Works Department prior to implementation. Updated timing and signal coordination shall be physically implemented **prior to the issuance of the building permit for the 123rd on-site residential unit.** **(MM TRANS-2)**
73. **Prior to the issuance of the first building permit**, the Project Applicant shall fund optimization of the signal timing at the intersection of Camino Tassajara and Oak Gate Drive-Lawrence Road (Intersection #5). This will require signal coordination with Intersection #4: Camino Tassajara and Hansen Lane-Diablo Vista Middle School Driveway. Both intersections are under the jurisdiction of the Town of Danville. Modifications to signal timing shall be reviewed by and meet the approval of the Town of Danville and Contra Costa Public Works Department prior to implementation. **(MM TRANS-3b)**

74. **Prior to the issuance of the first building permit**, the Project Applicant shall fund optimization of the intersection signal timing at the intersection of Camino Tassajara and Buckingham Drive-Rassani Drive (Intersection #8). This intersection is under the jurisdiction of the Town of Danville. Modifications to signal timing shall be reviewed by and meet the approval of the Town of Danville and Contra Costa Public Works Department prior to implementation. **(MM TRANS-3c)**
75. **Prior to the issuance of the first building permit**, the Project Applicant shall fund optimization of the intersection signal timing at the intersection of Camino Tassajara and Tassajara Ranch Drive (Intersection #10). This intersection is under the jurisdiction of the Town of Danville. Modifications to signal timing shall be reviewed by and meet the approval of the Town of Danville and Contra Costa Public Works Department prior to implementation. **(MM TRANS-3d)**

County Service Area (CSA)

76. The Applicant shall provide and fund public transit and/or school bus services to the Tassajara Parks Project by: (1) participating with the County in the formation of a County Service Area, subject to LAFCO approval; and (2) approving the levy of benefit assessments on parcels within the subdivision or, at the County's option, approving and implementing another equivalent funding mechanism acceptable to the Board of Supervisors. The County Service Area shall be formed and the benefit assessments (or an equivalent funding mechanism acceptable to the Board of Supervisors) shall be approved and levied **before the first final map is filed for any portion of the Project**.
77. To facilitate formation of the County Service Area, the Applicant shall participate in and fund the preparation of an Engineer's Report by the County, which report shall include the following elements: (1) evaluation and definition of the appropriate base level and type of public transit and/or school bus services that would be extended to the Tassajara Parks Project during, at minimum, the peak hour commute periods (6:30 - 9:00 a.m. and 4:00 - 6:30 p.m.) and/or school bell times; (2) the identification of the capital and operating expenses associated with the appropriate base level of public transit/school bus services, which would, in the case of public transit, either operate as a subscription, demand response or other undefined system, or in the case of fixed route service, have a goal of twenty (20) minute headways for the peak hour commute periods, or alternatively, on headways that provide an equivalent of high quality and responsive service to residents of the Project for the peak commute periods, and as defined in the Engineer's Report; (3) the fair share of apportionment of these public transit/school bus capital and operating expenses for the Tassajara Parks Project; (4) the formation of a benefit assessment district for the County Service Area to assess all parcels within the Tassajara Parks Project (or an equivalent funding mechanism acceptable to the Board of Supervisors) to fund the Project's fair share contribution for this extended public transit/school bus service; (5) any imposition of such an assessment on a parcel within Tassajara Parks for the purposes described above would begin following the issuance of an occupancy permit, and thereafter, the annual assessment imposed on a parcel would be reviewed and, as necessary, adjusted to reflect increased costs in operating this service; and, (6) the operation of the public transit/school bus service as described above would begin at the 123rd unit of the Project.

The Engineer's Report, which should be prepared in consultation with and with advice from the local public transit provider (Central Contra Costa Transit Authority), and TRAFFIX (a joint powers administering congestion reduction focused school bus service in the area), should specifically evaluate and recommend the appropriate level and type of public transit service for the Project between the Project Site and the major employment/activity centers and transit hubs as determined by an origin-destination analysis conducted as a part of the Engineers Report. In the case of school bus service for the Project, the report shall recommend which schools to serve. The service area for the Engineer's Report shall include all development in the Tassajara Parks Project. The Engineer's Report shall establish pro-rata fair shares among the Applicant(s) in the subdivision for the recommended level and type of public transit and school bus service for the Project.

78. Upon completion of the Engineer's Report, the Applicant, at the Applicant's expense, in coordination with the County and LAFCO, shall take all appropriate actions to implement the report's recommendations, including: (1) the formation of a County Service Area, subject to approval by County and LAFCO, to provide public transit and school bus services and the approval and levy of benefit assessments on all parcels within the Tassajara Parks Project (or an equivalent funding mechanism acceptable to the Board of Supervisors) to provide permanent funding for the services; and, (2) **prior filing of the first final map**, the Applicant shall deposit with the County the Project's pro rata fair share of the capital costs necessary for the purchase of the transit vehicles or other capital costs, to be used for the public transit and/or school bus service that would be extended to the Tassajara Parks Project under the County Service Area pursuant to the approved Engineer's Report.
79. The County and LAFCO will need to approve the formation of the above-referenced County Service Area in accordance with applicable laws and regulations. So long as the Applicant complies with all of its obligations set forth in COA 76 through 78, the Applicant shall be deemed to have satisfied the foregoing conditions even if the County and/or LAFCO do not ultimately approve the formation of the above-referenced County Service Area.

Utilities and Services Systems

80. **Prior to the filing of the first Final Map**, the Applicant shall provide proof of water service for the Project to the CDD. (MM USS-1) Proof of water service must be provided in the form of a written communication from EBMUD confirming the availability of water service for the Project Site.
- 80-1. Prior to the filing of the first Final Map, the Applicant shall provide a copy of the recorded Certificate of Completion for annexation of the Residential Development Area and the Pedestrian Staging Area (as those terms are described in the Project EIR) into EBMUD's service area. Consistent therewith, and subject to the EBMUD Board of Director's discretion, no water from EBMUD shall be provided to any portion of the Project Site that is located outside the County's Urban Limit Line (as modified by the Project) except for the Pedestrian Staging Area, which shall be provided water service consistent with the applicable adopted Regulations Governing Water Service to Customers of the EBMUD, and may require a main line extension to serve the Project. Landscaping within the Residential Development Area and the Pedestrian Staging Area shall be designed to receive recycled water if and to the extent recycled water is available, as determined by EBMUD, to serve the Residential Development Area and the Pedestrian Staging Area, consistent with the applicable adopted Regulations Governing Water Service to Customers of the EBMUD.

- 80-2. Subject to the EBMUD Board of Director's discretion, water provided to the Pedestrian Staging Area shall be limited to that necessary to maintain any landscaping in the Pedestrian Staging Area and water use incidental to recreation, such as drinking fountains, toilets, and hand washing station(s). This limitation shall be included in and made a condition of any conveyance of the Pedestrian Staging Area to any party. Subject to the EBMUD Board of Director's discretion, neither the Applicant nor any future owner of the Pedestrian Staging Area shall be provided water service to the Pedestrian Staging Area until payment of (1) any charges or fees of general applicability that EBMUD may impose on the Project under applicable laws and regulations, and (2) any additional charges or fees imposed on the Project by EBMUD pursuant to the EBMUD Agreement required by COA #80-4, below.
- 80-3. Prior to issuance of the building permit for the Project's first residential unit, the Applicant shall document to the County's reasonable satisfaction that the following on-site water conservation measures are or will be implemented for all residential units (including models). Final selection of on-site water conservation measures to be implemented by the Applicant shall be those identified and approved by EBMUD. Potential on-site water conservation measures may include, but are not limited to, the following:
- Installation of water efficient irrigation systems for all residential units and common areas that include efficient sprinkler heads and drip irrigation;
 - Installation of ultra-low and dual flush flow toilets as required by applicable state law;
 - High-efficiency clothes washing machines (if installed);
 - Installation of evapotranspiration controllers in landscaping for all residential units and common areas;
 - Utilization of drip irrigation for each residential lot and common areas;
 - Installation of drought-tolerant landscaping for each residential lot and common areas in accordance with applicable provisions of the state's Model Water Efficient Landscape Ordinance (or the County's Landscape Ordinance if adopted); and
 - Plumbing of the irrigation system for common landscaped areas so that it can be separated from the potable water system if and to the extent recycled water is available to serve the Residential Development and the Pedestrian Staging Area.

The Applicant's obligation to install the above-referenced on-site conservation measures shall also be reflected in the EBMUD Agreement (as defined in COA #80-4).

The Project will be subject to applicable adopted EBMUD regulations aimed at encouraging efficient water use, such as Sections 29 and 31 of Regulations Governing Water Service to Customers of the EBMUD. Section 29, "Water Use Restrictions," promotes efficient water use by District customers and prohibits certain uses of potable water. Section 31, "Water Efficiency Requirements," identifies the types of water efficiency requirements (i.e., maximum flow rates for flow control devices) for water service. Subject to the EBMUD Board of Director's discretion, water service shall not be furnished to the Project unless all the applicable water-efficiency measures described in EBMUD's applicable adopted regulations are installed at the Applicant's expense.

- 80-4. In addition to any rates, charges, fees, or regulations of general applicability that EBMUD may impose on the Project under applicable laws and regulations, the Applicant shall pay to EBMUD a "water demand mitigation fee" in an amount agreed upon by the EBMUD

Board of Directors, in its discretion, in exchange for a commitment to serve the Project. The amount of the water demand mitigation fee must be sufficient, as determined by the EBMUD Board of Directors, to fund offsite conservation programs to fully and sufficiently offset the Project's water demand at a ratio of at least 2:1 (i.e., 2 gallons in conservation savings for every one gallon of Project water demand). The water demand mitigation ratio and the suite of potential offsite conservation programs forming the basis for calculation of the water demand mitigation fee shall be determined by EBMUD. The water demand mitigation fee shall be memorialized in a binding agreement between the Applicant and EBMUD and approved by the EBMUD Board of Directors ("EBMUD Agreement"). The subject water demand mitigation fee shall be charged on a per-residential-unit basis; and shall be payable for each connection prior to the issuance of the building permit for each residential unit. The EBMUD Agreement may also include the following provisions, all as determined by the EBMUD Board of Directors and to the satisfaction of EBMUD in its discretion:

- A statement of the Project's water demand, as determined by EBMUD;
- An identification of the specific on-site water conservation measures EBMUD would require to be implemented as part of Project construction, and related obligations for Applicant to install the same;
- A statement of the total water budget for the Project, as determined by EBMUD, for purposes of the imposition of water budget exceedance fees or penalties on the Project's homeowners' association if said budget is exceeded, and related monitoring and enforcement provisions for purposes of imposing said fees or penalties;
- A requirement that the Project's homeowners' association shall enforce all recorded CC&R provisions related to water conservation measures to help ensure continued implementation of all on-site indoor and outdoor conservation measures required by EBMUD as reflected in those CC&Rs;
- A requirement that, if actual annual water usage for the Project exceeds one hundred percent (100 percent) of the total water budget for the Project, the Project's homeowners' association shall be subject to and responsible for payment of any additional water budget exceedance fees or penalties in the agreed-upon amount set forth in the EBMUD Agreement for the year in which the exceedance occurred; and
- A requirement that the Applicant shall expressly include the on-site water conservation measures, water budget requirements, and EBMUD's ability to impose any applicable water budget exceedance fees or penalties on the Project's homeowner's association in the recorded CC&R's for the Project, including provisions that (1) such requirements shall be in place at the time of resale and shall not be revised, amended, or deleted without EBMUD's prior written approval, and (2) EBMUD shall be treated as an intended third party beneficiary under the CC&Rs with the authority to enforce the same.

The EBMUD Agreement shall also require the Applicant to fund EBMUD 's actual costs to develop the information necessary for each of the determinations described above.

The foregoing binding agreement between the Applicant and EBMUD shall be fully executed prior to the filing of the first Final Map.

Prior to the filing of the first Final Map, the Applicant shall provide a fully executed copy of the EBMUD Agreement to the CDD.

- 80-5. Annexation of the Project into EBMUD's service area shall be conditioned upon inclusion of the Residential Development Area and the Pedestrian Staging Area within the Contractor's Service Area set forth in EBMUD's Central Valley Project (CVP) contract with the United States Department of Interior, Bureau of Reclamation (Reclamation). If LAFCO approves the annexation of the Project into EBMUD's service area, immediately following that LAFCO approval the Applicant shall work with EBMUD to apply for the above CVP inclusion. The Applicant shall be responsible for all costs associated with obtaining Reclamation approval. No water service shall be provided to the Residential Development Area and Pedestrian Staging Area until after Reclamation approves the request to include the Residential Development Area and the Pedestrian Staging Area within the Contractor's Service Area under EBMUD's CVP contract.
81. All existing wells (if any) located within the Residential Development Area shall be abandoned with permits as required by the County Health Services Department, Environmental Health Division and in accordance with applicable laws and regulations. **Prior to filing of the first Final Map**, evidence shall be provided to the DCD indicating that the required permits (if any) have been obtained, or that an application for a permit is being processed.
82. **Prior to recordation of the first Final Map**, the Project sponsor shall provide evidence that adequate public sanitary sewer services can be provided for the development.

Tassajara Hills Elementary Parking Lot Improvements

83. **Prior to filing of the first Final Map**, the Applicant shall provide evidence to the CDD indicating that an agreement and timeline for completion of the proposed improvements to the Tassajara Hills Elementary School parking lot have been finalized.

PUBLIC WORKS CONDITIONS OF APPROVAL

The Applicant shall comply with the applicable requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exception(s) must be stipulated in these Conditions of Approval; all such exceptions are set forth herein. These Conditions of Approval are based on the Final Development Plan/Vesting Tentative Map submitted to the Department of Conservation and Development on August 19, 2020.

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

General Requirements

84. In accordance with Section 92-2.006 of the County 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; all such exceptions

are set forth herein. The drainage, road and utility improvements outlined below shall require the review and approval of the Public Works Department and are based on the Final Development Plan/Vesting Tentative Map received by the Department of Conservation and Development, Community Development Division, on August 19, 2020.

85. The Applicant shall submit improvement plans prepared by a registered civil engineer to the Public Works Department and pay appropriate fees in accordance with the County Ordinance Code and these conditions of approval. The below conditions of approval are subject to the review and approval of the Public Works Department.

Roadway Improvements (Frontage)

86. Northern Site -

The Applicant is granted an exception from the installation of frontage improvements along Camino Tassajara east of "A" Street excepting any improvements necessary to accommodate intersection channelization/transitions or a bus stop (if deemed necessary).

87. Southern Site -

The Applicant is granted an exception from the installation of frontage improvements along the Southern Site frontage of Camino Tassajara.

Roadway Improvements (Off-Site)

88. Updated timing and signal coordination shall be physically implemented prior to accepting the subdivision improvements as complete and releasing all related bonds and security.
89. The Applicant shall construct access modifications and improvements to the parking lot serving Tassajara Hills Elementary School subject to the Applicant and School District reaching mutual agreement on the scope and timing of same. These improvements, including signal modifications, must be coordinated with the School District, DGS - Division of the State Architect, and the County Public Works Department.

Roadway Improvements (On-Site)

90. The Applicant shall construct the on-site road system to applicable County public road standards and convey to the County, by Offer of Dedication, the corresponding right of way.
91. The Applicant shall incorporate traffic calming measures in the design of on-site streets. These may include curb "bulb-outs" at the intersections of 'A' and 'D' Streets and 'A' and 'C' Streets to facilitate pedestrian access to Parcels 'K' and 'J'. Additional or alternate measures (e.g. speed bumps) may also be required subject to approval by both the Fire District and Public Works Director or designee.
92. The Applicant shall construct the proposed "mini-roundabout" at the intersection of 'A' and 'E' Streets per the latest Technical Summary published by the FHWA (FHWA-SA-10-007) as directed by the Fire District and Public Works Department.

93. The Applicant shall construct all on-site internal intersections to be side-street stop-controlled or yield controlled intersections at the minor approaches. **MM TRANS-6a**

Access to Adjoining Property

94. Proof of Access: The Applicant shall furnish proof to the 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 as may be necessary (if any).
95. Encroachment Permit: **Prior to filing of the first Final Map or CDD stamp-approval of plans for issuance of a grading permit**, whichever occurs first, the Applicant shall obtain an encroachment permit from the Application and Permit Center for construction of driveways or other improvements within the right of way of Camino Tassajara and Finley Road.

Abutter's Rights

96. Property owner(s) shall relinquish abutter's rights of access along Camino Tassajara with the exception of the proposed intersection at 'A' Street.

Road Alignment/Intersection Design/Sight Distance

97. Sight Distance: The Applicant shall provide sight distance at all intersections with Camino Tassajara for a design speed of 50 miles per hour.
98. Sight Distance: The Applicant shall submit a preliminary alignment study to the Public Works Department for review showing the ultimate road improvements per the County General Plan along the Southern Site frontage of Camino Tassajara. This "sketch plan" shall be to scale, show horizontal and vertical alignments, transitions, curb lines, lane striping, storm water treatment facilities and cross sections. Sight distance for the plan shall be based on a design speed of 50 miles per hour. The plan shall extend a minimum of 200-feet beyond the limits of the proposed work. The typical section shall include an 80-foot roadway section within a 100-foot right of way. The road will include two lanes in each direction, bike lanes/shoulders and a 16-foot median area that may also serve as a two-way left turn lane. Additional section width may be necessary at the intersections with Highland and Johnston Roads to accommodate turning movement channelization.

AOB Reimbursements

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

Road Dedications

100. Camino Tassajara - Property owner(s) shall convey to the County, by separate instrument, and irrevocable Offer of Dedication for right of way consistent with the proposed improvements and "sketch plans" previously noted within these conditions of approval.

101. Finley Road - Property owner(s) shall convey to the County, by separate instrument, an irrevocable Offer of Dedication, for a 30-foot half width right of way consistent with the previous dedication on the adjacent southern parcel. This width shall be adjusted accordingly to eliminate the angle points in the existing easement. The minimum centerline radius required for arterial streets per the County Ordinance Code is 650 feet.

Street Lights

102. Street lights shall be installed along all public street frontages in accordance with County Ordinance Code requirements and Public Works Department Street Light Design Guidelines; provided, however, that no street lights within one mile of an existing school shall be required pursuant to the exception granted herein.
103. Property owner(s) 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

104. The Applicant shall install (or cause to be installed) and warrant all landscaping and automatic irrigation facilities in the public right of way. The landscape facilities shall be maintained by the Developer: a) for a minimum of 90 days after installation, b) until the plants have become established, and c) until maintenance funding and a license agreement is established between the County and Homeowner's Association.
105. For all landscaping in the public right of way, the Applicant shall submit four sets of landscape and automatic irrigation plans and cost estimates, prepared by a licensed landscape architect, to the Public Works Department for review and to the CDD for review and approval, **prior to filing of the first Final Map**. Applicant shall pay appropriate fees in accordance with County Ordinance.

Bicycle - Pedestrian Facilities

106. Curb ramps and driveways shall be designed and constructed in accordance with then-current County standards. A detectable warning surface (e.g. truncated domes) shall be installed on all curb ramps. Adequate right of way shall be dedicated at the curb returns to accommodate the returns and curb ramps and accommodate a minimum 4-foot landing on top of any curb ramp proposed.
107. The Applicant shall design all public and private pedestrian facilities in accordance with applicable provisions of Title 24 (Handicap Access) and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.
108. Proposed pedestrian paths connecting to the school site must be coordinated with the School District, State Department of General Services (DGS) - Division of the State Architect, and the Public Works Department.

Utilities/Undergrounding

109. The Applicant is granted an exception from the underground utility requirements along Camino Tassajara east of 'A' Street and along Finley Road.

Maintenance of Facilities

110. The subdivider shall insure the maintenance of the detention basin facility through either an existing public maintenance entity **or** by the creation of another maintenance entity (e.g., GHAD, HOA). The entity shall have an adequate revenue source to assure perpetual maintenance.
111. The maintenance obligation of all common and open space areas, parks, private landscaped areas, perimeter walls/fences, and on-site drainage, detention and stormwater treatment facilities shall be included in the covenants, conditions, and restrictions (CC&Rs). The language to comply with this condition shall be submitted for the review and approval of the DCD and the Public Works Department at least 60 days prior to filing of the first Final Map.
112. Maintenance operations of landscaping or other facilities within public street rights of way shall be subject to obtaining an encroachment permit for the County. Ongoing operations will necessitate entering into a license agreement with the County.

Drainage Improvements

113. Collect and Convey: The Applicant is granted an exception from the "collect and convey" requirements of the County Ordinance Code provided the proposed detention/stormwater management basin is designed to reduce pre-project peak stormwater discharge rates by at least 10% for 10, 25 and 100-year storm events of 3, 6, 12 and 24-hr. duration.

Miscellaneous Drainage Requirements

114. The Applicant shall design and construct all storm drainage facilities in compliance with the applicable provisions of the County Ordinance Code, Public Works Department design standards, and Flood Control District Detention Basin Guidelines.
115. The Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner in accordance with applicable requirements and standards.
116. The property owner shall offer to dedicate a public drainage easement over any man-made drainage system which conveys storm water run-off from public streets.
117. A private storm drain easement, conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be offered for dedication over the proposed storm drain line traversing the site, and other facilities to be maintained by a third party other than the property owner or Homeowners Association (e.g., a GHAD).

Creek Banks and Creek Structure Setbacks

118. The Property owner shall relinquish "development rights" over those portions of the site that are within the structure setback area of natural creeks. The structure setback area shall be determined by using the criteria outlined in Chapter 914-14, "Rights of Way and Setbacks," of the Subdivision Ordinance. "Development rights" shall be conveyed to the County by grant deed.

National Pollutant Discharge Elimination System (NPDES)

119. The Applicant shall be required to comply with all applicable 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 (San Francisco Bay - Region II).

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:

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention basins) as reviewed and approved by the Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permits.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Shallow roadside and on-site swales.
- Distribute public information items regarding the Clean Water Program and lot specific IMPs to buyers.
- Other alternatives comparable to the above as approved by the Public Works Department.

Stormwater Management and Discharge Control Ordinance

120. 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 applicable provisions of the County's Stormwater Management and Discharge Control Ordinance (§1014) **prior to filing of the first 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.

121. 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).
122. Storm water 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.
123. **Prior to filing of the first Final Map**, the property owner(s) shall enter into a standard 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.
124. **Prior to filing of the first 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.
125. 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.

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

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

Pursuant to Government Code Section 66000 *et seq.*, the Applicant has the opportunity to protest fees, dedications, reservation, or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this Project is approved. If the 90th day falls on a day that the DCD is closed, then the protest must be submitted by the end of the next business day.

- B. The Applicant should be aware of applicable expiration dates and renewing requirements prior to recording the first Final Map.
- C. Prior to commencement of the use approved under this permits and approvals, the Applicant may wish to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed Project:
 - County Building Inspection Division
 - East Bay Municipal Utility District
 - San Ramon Valley Fire Protection District

- Central Contra Costa Sanitary District
- Contra Costa County Local Agency Formation Commission (LAFCO)
- East Bay Regional Park District
- U.S. Department of Fish and Wildlife
- California Department of Fish and Wildlife

- D. The Applicant will be required to comply with the applicable requirements of the Bridge/Thoroughfare Fee Ordinance for the South County, Tri-Valley Transportation, Southern Contra Costa (SCC) Sub Regional and SCC Regional Areas of Benefit as adopted by the Board of Supervisors.
- E. Portions of the Project lie within the Special Flood Hazard Area (100-year flood boundary) as designated on the Federal Management Emergency Agency's Flood Insurance Rate Maps. The Applicant shall be aware of the requirements of the National Flood Insurance Program and the County Floodplain Management Ordinance as they pertain to future construction of any structures on this property.
- F. This Project may be subject to the requirements of the California 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.
- G. 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.
- H. Although the Stormwater Control Plan has been determined to be preliminarily complete, if 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.