

CALIFORNIA COASTAL COMMISSION

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5-20-0446-A1 (OC RE-HAB 1, LLC & GC-8, LLC)

JANUARY 20, 2022

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EXHIBIT 1 – PROJECT LOCATION



EXHIBIT 2 – CONDITIONS OF CDP 5-20-0446

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SPECIAL CONDITIONS

1. **Submittal of Revised Restoration, Mitigation, Monitoring, and Maintenance Plan, Long-Term Habitat Management Plan, and Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, a revised final Restoration, Mitigation, Monitoring, and Maintenance Plan, a revised final Long-Term Habitat Management Plan, and revised project plans in substantial conformance with the "Restoration, Mitigation, Monitoring, and Maintenance Plan" dated March 13, 2021, "Long-Term Habitat Management Plan for the Shorecliffs Wetland Conservation Area" dated July 27, 2020, and the project plans dated June 19, 2018, that have been revised to include, at minimum, the following:
 - A. The project shall establish on-site no less than 1.18 acres of new creek/riparian habitat, 1.35 acres of new wetlands, and 2.09 acres of new upland habitat, in addition to off-site restoration of no less than 7.27 acres of existing native habitat.
 - B. All monitoring and reporting activity proposed for the project site within the initial five-year period shall also be required for Off-Site Mitigation Sites 1 and 2, including but not limited to: site visits twice a year, establishment of locations for comparative photograph analysis, evaluation using specific performance objectives, and preparation of an annual monitoring report no later than December 31 of each monitoring year.
 - C. All performance objectives listed for Zones A, B, and C of the project site shall be adopted for Off-Site Mitigation Sites 1 and 2, including but not limited to: at least 75% native cover by the end of the initial five-year monitoring period, absence of moderately to highly invasive species, and survival in the absence of irrigation.
 - D. If the performance objectives for Off-Site Mitigation Sites 1 and 2 are not met, the project restoration ecologist will identify the problems during the scheduled site visits, determine the cause(s) of the problems, and provide the property owner or their representative recommendations that will correct them. The project ecological consultant shall continue the monitoring and reporting measures summarized in the five-year plan until all performance objectives are met. The property owner shall be responsible for ensuring that all remedial action is taken and completed in a timely manner so that the performance standards are met.

The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- 2. Resource Agencies Approval.** The permittees shall comply with all requirements, requests and mitigation measures from the Regional Water Quality Control Board and California Department of Fish and Wildlife, with respect to preservation and protection of water quality and the marine and terrestrial environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
- 3. Construction Timing and Sensitive Bird Species Surveys.** For any construction activities occurring between February 15 and September 1, including grading, re-vegetation, and installation of irrigation, the applicants shall retain the services of a qualified biologist or environmental resources specialist (hereinafter, "environmental resources specialist") to conduct nesting bird surveys in order to determine the presence of songbird and raptor and owl species including but not limited to the coastal California gnatcatcher (*Poliophtila californica californica*). The environmental resources specialist shall also monitor project operations. At least 30 calendar days prior to commencement of any project operations, the applicants shall submit the name and qualifications of the environmental resources specialist, for the review and approval of the Executive Director. The applicants shall ensure that all project construction operations shall be carried out consistent with the following:

 - A. A qualified environmental resources specialist with experience in conducting nesting bird surveys shall conduct the surveys 30 calendar days prior to construction activities within 500 feet of the project. A follow-up survey must be conducted 3 calendar days prior to the initiation of construction, and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.
 - B. If an active nest of any songbird is found within 300 feet of the project, or an active nest for any raptor species is found within 500 feet of the project, the applicants shall retain the services of an environmental resources specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The nest shall not be removed or disturbed. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The environmental resources specialist shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site(s). If construction noise exceeds a peak level of 65 dB at the nest(s) site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease and shall not recommence until either new sound mitigation can be employed or the birds have fledged.

- C. If an active nest of a federally or state-listed threatened or endangered species or bird species of special concern is found within 300 feet of the project, or an active nest for any species of raptor is found within 500 feet of the project, the applicants will notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. The applicants will notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.
- D. The environmental resource specialist shall be present during all construction activities during the bird nesting/breeding season if an active nest is identified, until the birds have fledged.
- E. The environmental resource specialist shall require the applicants to cease work should any breach in compliance with this condition occur, or if any unforeseen sensitive habitat issues arise. The environmental resources specialist shall immediately notify the Executive Director if activities outside the scope of the subject CDP occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicants shall be required to submit a revised or supplemental program to adequately mitigate such impacts.

4. Construction Best Management Practices.

- A. The permittees shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:
 - 1. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
 - 2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - 3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
 - 4. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include but are not limited to the placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
 - 5. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and stored as far from a storm drain inlet and any receiving waters as possible.

B. Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

1. The permittees shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from any receiving waters and storm drain inlets as possible;
 2. The permittees shall develop and implement spill prevention and control measures;
 3. The permittees shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and
 4. The permittees shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
 5. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting shall be prohibited, to minimize wildlife entanglement and plastic debris pollution. Only 100% biodegradable (not photodegradable) natural fiber netting shall be allowed.
 6. The permittees shall not spray landscaping chemicals in or within 25 feet of any drainage swale, and will minimize the use of landscaping chemicals within the project to the extent feasible.
 7. The permittees shall implement Integrated Pest Management (IPM) for the project to the extent feasible, to minimize the use of landscaping chemicals and to prevent the degradation of coastal water quality
- 5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agrees (i) that the site may be subject to hazards including but not limited to bluff and slope instability, sea level rise, erosion, landslides and wave uprush or other tidal induced erosion; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to

indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

6. Open Space/Habitat Use Restrictions.

- A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the open space areas as depicted in **Exhibit 3** located along the northern and southern slopes, as well as within the western ravine, of Cascadita Canyon (Project Site); the parcel of land bounded by Calle Grande Vista, Avenida Vaquero, and northbound Interstate 5 (Off-Site Mitigation Site 1); the parcel of land bounded by southbound Interstate 5, Calle Vicente, and Avenida Vaquero (Off-Site Mitigation Site 2); nor the open space area located within the parcel of land bounded by Avenida Vaquero, Camino De Los Mares, and Calle Nuevo (Off-Site Mitigation Site 2), except for:
1. Removal of non-native plant species designated by the California Invasive Plant Council as moderately to highly invasive;
 2. Revegetation with the native plant species specified in tables 1-5 of the applicant's submitted RMMMP dated March 13, 2021; and
 3. Installation of an above-ground irrigation system and a connected drainage system
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the landowners shall execute and record deed restrictions in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the designated open space areas. The recorded documents shall include legal descriptions and graphic depictions of the legal parcel(s) subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the designated open space area prepared by a licensed surveyor based on an on-site inspection of the open space area.
- C. The deed restrictions shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed.
- D. The deed restrictions shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicants or landowners in perpetuity

- 7. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the co-applicants shall submit to the Executive Director for review and approval documentation demonstrating that the co-applicants have executed and recorded against the parcels governed by this permit deed restrictions, in a form and

content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject properties, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Properties. The deed restrictions shall include a legal description of the parcels governed by this permit. The deed restrictions shall also indicate that, in the event of an extinguishment or termination of the deed restrictions for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject properties so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject properties.

- 8. Proof of Legal Ability to Comply with Conditions.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall demonstrate their legal ability or authority to comply with all of the terms and conditions of this coastal development permit by submitting, for the Executive Director's review and approval, information indicating approval from the record title property owners that (a) authorizes the applicants to proceed with the approved development and (b) permits the applicants to comply with the terms and conditions of this coastal development permit.