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STAFF REPORT: REGULAR CALENDAR

Application No.: 4-21-0498

Applicants: California Coastal Conservancy, City of Oxnard, and The Nature Conservancy

Project Location: Ormond Beach, City of Oxnard (Ventura County)

Project Description: At Ormond Beach, implement a five-year maintenance and habitat conservation program consisting of (1) year-round and seasonal fencing to protect nesting shorebirds, (2) removal of invasive plant species and tree trimming, (3) maintenance of existing access roads and trails by clearing overgrown vegetation, and (4) field data collection and monitoring activities including the installation of groundwater monitoring wells, water level and salinity gauges, and time-lapse camera monitoring station.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **approve** coastal development permit application (CDP) 4-21-0498 with the following eight (8) special conditions: (1) Permit Term, (2) Fencing Plan Conformance, (3) Public Access Protection Plan During Project Activities, (4) Best Management Practices, (5) Nesting Bird Protection Measures for Vegetation Maintenance Activities, (6) Assumption of Risk, (7) Agency Approvals, and (8) Protection of Tribal Cultural and Archaeological Resources.

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The California Coastal Conservancy (SCC), the City of Oxnard (City), and The Nature Conservancy (TNC) (collectively referred to as the “Project Partners”) propose a five-year maintenance and habitat conservation program on approximately 334 acres of the Ormond Beach area in the southern portion of the City of Oxnard, in Ventura County. The proposed activities involve habitat protection for the Western snowy plover and the California least tern including year-round and seasonal habitat fencing, invasive plant removal, access trail/road maintenance, and field data collection. The Project Partners are currently planning and developing an “Ormond Beach Restoration and Public Access Plan” to protect and restore the natural habitats of this area and to enhance opportunities for people to easily and safely visit Ormond Beach and enjoy the nature, educational opportunities, and recreation that are compatible with the restored ecosystem. However, the proposed project is intended to enable limited interim habitat maintenance activities at the site while the larger restoration and public access plan is being further developed and finalized.

The proposed project is partially located within the retained jurisdiction of the Coastal Commission and partially located within the City of Oxnard’s permit jurisdiction under its certified Local Coastal Plan (LCP). The applicants have requested a consolidated permit and the City requested that the Commission assume jurisdiction over all activities associated with the proposed project. The standard of review for a consolidated coastal development permit application submitted pursuant to Section 30601.3(a) is Chapter 3 of the Coastal Act, with the applicable policies of the City of Oxnard’s certified LCP used as guidance. As conditioned below, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

The proposed project includes year-round and seasonal fencing to protect nesting shore birds from human and animal disturbances. Fences provide a refuge from disturbance for chicks and nesting adults and increase nesting success. Habitat fencing was previously installed in this area under temporary or emergency authorizations and the proposed project includes retaining the year-round and seasonal fencing to protect nesting shorebirds in the beach area of the site, the locations of which are based on surveyed locations of nesting clusters of the Western snowy plover and California least tern. The fencing design and configuration avoids dune features and includes gaps to allow continued public access to and along the shoreline. The proposed habitat fencing and associated signage would constitute development within and adjacent to ESHA, but it is sited and designed to prevent impacts which would degrade an environmentally sensitive habitat area, consistent with Section 30240(b) of the Coastal Act. In fact, the fencing would have a beneficial effect on snowy plover and least tern habitat areas, and the associated signage informing the public of appropriate use and access would help protect the habitat. The proposed project includes best management practices, adaptive management and routine maintenance of the habitat fencing. Staff is recommending Special Condition 2 to require the applicant to conform to the proposed habitat protection fencing plan and perform monitoring and maintenance of the approved permanent habitat fencing and seasonal symbolic fencing throughout the term of this permit. Adaptive management of the fencing will allow the applicant to provide suitable

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protection of nesting shorebirds without affecting public access to the beach. And Special Condition 1 requires that an approved environmental specialist or a biological monitor must be present and monitor any adjustments, maintenance, or repair of the fencing to avoid potential disruptions to nesting birds.

The proposed project also consists of vegetation maintenance activities, including approximately 50 acres of invasive plant species removal, trimming the lower canopy of existing Monterey cypress trees, and clearing overgrown vegetation along existing roads and trails to maintain access. Vegetation clearance, maintenance and repair activities are proposed to occur outside of the bird nesting period between October-March. In addition to implementing best management practices during invasive plant removal and vegetation maintenance activities, the applicants also propose measures to avoid impacts to nesting birds. To ensure that adequate measures are implemented to protect sensitive habitats from significant disruption of habitat values and to protect the biological productivity of coastal waters consistent with Coastal Act Sections 30240 and 30231 during project activities, Staff is recommending several special conditions to require the implementation of best management practices and nesting bird protection measures. Special Condition 4 specifies the limits for selective herbicide application that may be employed for purposes of habitat restoration only consistent with the applicant's specification procedures. Special Condition 5 specifies that vegetation maintenance activities shall be conducted outside the bird nesting season to the maximum extent feasible, and if work is conducted during the bird nesting season (February-September), a qualified biologist shall conduct a survey for nesting birds in and adjacent to the project work area prior to any tree trimming and/or non-native tree removal each day such activities are conducted.

Consistent with the Commission's Tribal Consultation Policy, Commission staff met with the Cultural Resource Committee of the Barbareño/Ventureño Band of Mission Indians who requested consultation and discussed their concerns regarding monitoring during ground-disturbing activities, and the use of herbicides for invasive species control. Consistent with the Tribe's request Staff is recommending Special Condition 8 which requires the applicant to notify the Barbareño/Ventureño Band of Mission Indians, and any other tribal entities with documented ancestral ties to the area that express interest in monitoring, of the construction schedule and arrange for tribal representative(s) who express interest in monitoring to be present to observe ground-disturbing activities.

As conditioned, the proposed project is consistent with the Chapter 3 policies of the Coastal Act and the policies of the City of Oxnard's certified LCP. Therefore, staff recommends that the Commission approve CDP No. 4-21-0498 as conditioned. The motion and resolution to adopt the staff recommendation to approve the permit can be found on page 5.

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EXHIBITS

[Exhibit 1. Vicinity Map](#)

[Exhibit 2. Proposed Project Overview Map](#)

[Exhibit 3. Proposed Shorebird Habitat Fencing Map and Photos](#)

[Exhibit 4. Shorebird Nesting Activity Maps](#)

[Exhibit 5. Access Roads, Trails, and Staging Areas Map](#)

[Exhibit 6. Field Data Collection Map](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 4-21-0498 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves the Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Term of Permit Approval

This coastal development permit authorizes implementation of the approved project on a temporary basis for a period of five (5) years from the date that CDP 4-21-0498 is approved by the Commission, after which time all project activities shall cease and project development shall be removed unless either a new coastal development permit, or an amendment to this permit is approved and issued by the California Coastal Commission.

2. Fencing Plan Conformance

Prior to issuance of the Coastal Development Permit, the applicants shall submit, for the review and written approval of the Executive Director, a final Habitat Protection Fencing Plan consistent with the draft plan that is part of the 'Ormond Beach Area Partnership Habitat and Species Conservation Activities' submitted by the project partners on November 18, 2022. The permittees shall perform monitoring and maintenance of the approved permanent habitat fencing and seasonal symbolic fencing throughout the term of this permit. Adaptive management of the fencing will allow the permittees to provide suitable protection of nesting shorebirds without affecting public access to the beach. An approved environmental specialist or a biological monitor must be present and monitor any adjustments, maintenance, or repair of the fencing to avoid potential disruptions to nesting birds. The applicants shall manage habitat fencing and seasonal symbolic fencing in accordance with the approved Habitat Protection Fencing Plan and any changes shall be reported to the Executive Director. No change to the Plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

3. Public Access Protection Plan During Project Activities

Prior to issuance of the Coastal Development Permit, the applicants shall submit, for the review and written approval of the Executive Director, a Public Access Protection Plan that describes the methods (including signs, fencing, etc.) by which safe public access through or around project activity areas and staging areas shall be maintained during all project activities. The Public Access Protection Plan shall also include signs as necessary directing the public to alternative parking areas or any temporary public access rerouting necessary for project activities. Where use of public parking spaces is unavoidable, only the minimum number of public parking spaces that are required for the staging of equipment, materials, and work crew parking shall be used. The

applicants shall maintain public access pursuant to the approved Public Access Protection Plan and any changes shall be reported to the Executive Director. No change to the Plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

4. Best Management Practices

It shall be the permittees' responsibility to assure that the following occurs concurrent with, and after the completion of, all project operations:

- A. No construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- B. Any fueling and maintenance of equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas. Mechanized heavy equipment and other vehicles used during maintenance activities shall not be refueled or washed within 100 feet of coastal waters.
- C. Maintenance vehicles shall be restricted to designated routes. Maintenance equipment and materials shall be stored only in designated staging and stockpiling areas, and equipment shall not be in contact with coastal waters or environmentally sensitive habitat areas at any time.
- D. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.
- E. Best Management Practices (BMPs) shall be implemented to control erosion from any disturbed areas and to prevent sediment and potential pollutants from entering coastal waters and/or native habitat plant communities during maintenance activities.
- F. The following Integrated Pest Management (IPM) approach shall be applied to the eradication of non-native invasive plants on the proposed Ormond Beach Restoration project site; 1) Non-chemical treatment methods such as mowing and hand-removal will be used wherever possible, 2) Chemical treatment methods will utilize the least toxic and least persistent herbicides, 3) Chemical treatment methods will minimize the use of herbicide and avoid non-target impacts. Herbicide use shall be restricted to the type of herbicides and the methods proposed in the *Project Description and Biological Assessment for Ormond Beach Area Partnership Habitat and Species Conservation Activities* and *the Invasive*

Plant Species Removal Activities Supplemental Report. The project biologist shall conduct a survey of the project site each day prior to commencement of vegetation removal and eradication activity involving the use of herbicide to determine whether any native vegetation is present. The project biologist shall ensure protection of native vegetation by verbally identifying said natives to herbicide applicators or delineation with fencing or survey flags. A California licensed Pest Control Advisor (PCA) or Qualified Applicator (QAL) will oversee all non-native invasive removal involving herbicides to ensure that the appropriate herbicide and formula is being applied to the respective target invasive(s) employing the best management practices per the herbicide label instructions. In the event that non-native invasive vegetation to be removed is located in close proximity to creek or wetland habitat, the applicant shall either: (a) remove non-native or invasive vegetation by hand or (b) utilize herbicides specifically approved for aquatic use. In no instance shall herbicide application occur if wind speeds on site are greater than 5 mph or 48 hours prior to predicted rain. In the event that rain does occur, herbicide application shall not resume again until 72 hours after rain. No use of any herbicide shall occur during the rainy season (November 1 – March 31) unless otherwise allowed by the Executive Director for good cause. The project biologist shall monitor all initial and subsequent non-native vegetation manual removal and herbicide application to ensure that native vegetation, wildlife, and water quality are not adversely affected. All work involving herbicides will be conducted under the supervision of the project biologist and the PCA or QAL. Re-treatment work done after initial removal of biomass will be seasonally timed to occur before flowering and seed set of target species.

- G. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

5. Nesting Bird Protection Measures for Vegetation Maintenance Activities

Vegetation maintenance activities shall be conducted outside the bird nesting season to the maximum extent feasible. If work is conducted during the bird nesting season (between February 1 - September 1), prior to commencement of approved tree trimming or non-native tree removal activities at any given site within the project **area**, the permittees shall undertake development in compliance with all of the following measures to protect sensitive bird nesting habitat:

- A. A survey for nesting birds in and adjacent to the project work area shall be conducted by a qualified biologist prior to tree trimming and/or non-native tree removal each day such activities are conducted.

- B. If any sensitive bird habitat area is detected (i.e., detection of an active nesting area of sensitive species), the biologist shall determine the extent of a work-free buffer zone to be established around the nest, and work in the buffer zone shall be delayed until after the young have fledged and the nest is vacated, as determined by additional surveys conducted by a qualified biologist. The work-free buffer zone shall be a minimum of 300 feet for nesting raptors and a minimum of 100 feet for other special-status bird species.
- C. The project biologist(s) shall be present on site during all tree trimming and non-native tree removal activities to (a) enforce the protective buffers, and (b) monitor active nests and breeding birds for signs of distress or abnormal behavior. If signs of distress or disturbance are observed, the project biologist(s) shall have discretion to enlarge the buffers, halt project activities, or implement other measures necessary to protect active nests and breeding.

6. Assumption of Risk, Waiver of Liability and Indemnity Agreement

By acceptance of this permit, the permittees acknowledge and agree (i) that the site may be subject to hazards including but not limited to waves, storms, flooding, landslide, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittees 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.

7. Required Agency Approvals

By acceptance of this permit, the permittees agree to obtain all other necessary Local, State or Federal permits that may be necessary for all aspects of the proposed project (including U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Fish and Wildlife Service). The Permittees shall inform the Executive Director of any changes to the project are required by any other such authorizations. Any such changes shall not be incorporated into the project until the Permittees obtain a Commission amendment to this CDP, unless the Executive Director determines that no amendment is legally required.

8. Protection of Tribal Cultural and Archaeological Resources

- A. At least two weeks prior to commencement of any vegetation removal, trail/road maintenance, or any other potential ground-disturbing activities, the permittees shall notify the Barbareño/Ventureño Band of Mission Indians, and any other tribal entities with documented ancestral ties to the area that express interest in monitoring, of the construction schedule and arrange for tribal representative(s) who express interest in monitoring to be present to observe ground-disturbing activities. The monitors shall have experience monitoring for Tribal cultural resources, identifying significant resource types, and should be aware of recommended tribal procedures for resource discovery.
- B. The development authorized under this Coastal Development Permit shall be performed in a manner that minimizes ground disturbance to the maximum extent feasible.
- C. If an area of cultural deposits is discovered during project activities, all activities that have the potential to uncover or otherwise disturb cultural deposits in the area of the discovery shall cease immediately and shall not recommence except as provided in subsection (d) hereof, and the permittees shall retain a qualified cultural resource specialist to analyze the significance of the find. An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s). Project activities may continue outside of the exclusion zone.
- D. A permittee seeking to recommence project activities following discovery of the cultural deposits in the exclusion zone shall submit a supplementary archaeological plan for the review and approval of the Executive Director, in consultation with tribal representatives.
 - (i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan’s recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director.
 - (ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The Nature Conservancy (TNC), the California State Coastal Conservancy (SCC), and the City of Oxnard (collectively referred to as “Project Partners”) propose to implement a five-year maintenance and habitat conservation program on approximately 334 acres of the Ormond Beach area in the southern portion of the City of Oxnard, in Ventura County.

The Project Partners own approximately 630 acres at Ormond Beach consisting of two miles of shoreline and its adjacent sand dunes, perennial and seasonal wetlands, transitional upland coastal habitats, and agriculture located between the City of Port Hueneme to the north and the Point Mugu Naval Base to the south. The properties are surrounded by industrial infrastructure including the Halaco properties (a former smelter plant and now part of a Superfund site), the Ormond Beach Generating Station, and the Port of Hueneme’s rail line. The City of Oxnard’s South Oxnard neighborhood lies north of the project area and many of the residents of these neighborhoods are Latinx (73.5 percent per 2010 US Census Bureau Data), and 16.6 percent of residents earn at or below the federal poverty line. The State of California defines South Oxnard as a disadvantaged to severely disadvantaged community (California Department of Water Resources 2020). The state’s Office of Environmental Health Hazard Assessment (OEHHA) ranked the City of Oxnard in the top 20 percent of the most environmentally burdened communities in the state (California EPA 2018).

Historically, the Ormond Beach area once supported a dynamic complex of coastal wetlands that were intermittently connected to rivers and the ocean and were formed by the mouth of the Santa Clara River as it moved across the Oxnard Plain over thousands of years. The landscape was significantly altered through filling wetlands and lagoons, excavating channels, establishment of agricultural uses, and allowing development to encroach on habitats. Now, the railroad, drainage channels, industrial development, and agriculture surround the natural landscape. Despite the impacts to the site, there remain important remnant habitats, extensive wetlands, and considerable opportunities for ecological restoration. The existing habitats include sandy, dune-lined beach, salt panne, lagoon, uplands, salt and brackish marshes, seasonal wetlands, and willow scrubs. Rare species of birds and native plants inhabit the area, and the diversity of wildlife and habitats is high. Much of the existing natural habitat areas of the Ormond Beach area are designated as environmentally sensitive habitat areas (ESHA) in the City of Oxnard certified Local Coastal Program. Currently, public access directly to the beach in this area is limited. Road access to the southernmost area through Arnold Road off East Hueneme Road, and the northwest lagoon area through Perkins Road off West Hueneme Road are the closest points to visit the beach and wetland areas. Limited off-street parking is provided for beach users at the terminus of both Perkins and Arnold Roads.

The SCC and TNC targeted Ormond Beach as a conservation priority in the early 1980's and has acquired land since. In 2016, SCC, TNC, and the City of Oxnard entered into a Memorandum of Understanding to collectively protect, manage, and restore the properties owned by the Project Partners at Ormond Beach. [Exhibit 1](#) provides a vicinity map that delineates the properties owned by each of the project partners. Some limited invasive plant removal activities and habitat fencing for nesting shorebirds have occurred at the site under temporary or emergency authorizations. The Project Partners are currently planning and developing an 'Ormond Beach Restoration and Public Access Plan' (OBRAP) to protect and restore the natural habitats of this area and to enhance opportunities for people to easily and safely visit Ormond Beach and enjoy the nature, educational opportunities, and recreation that are compatible with the restored ecosystem. The proposed project is intended to enable limited interim habitat maintenance activities at the site while the larger restoration and public access plan is being further developed and finalized.

Proposed maintenance and habitat conservation activities that the Project Partners are requesting authorization for in the subject permit application include year-round and seasonal fencing to protect sensitive shorebird species that nest and forage at Ormond Beach, removal of invasive plant species and tree trimming, maintenance of existing access roads and trails by clearing overgrown vegetation, and field data collection and monitoring activities including the installation of groundwater monitoring wells, water level and salinity gauges, and a time-lapse camera monitoring station. Each element of the proposed project is described further below.

Habitat Fencing

The Project Partners propose year-round and seasonal fencing to protect nesting shorebirds, the locations of which are based on surveyed locations of nesting clusters of the Western Snowy Plover (WSP) and California Least Tern (CLT). The proposed year-round fencing would be located in two main locations: the "North Habitat Fence" totaling 0.7 miles in length and enclosing 18 acres, and the "South Habitat Fence" totaling 1.4 miles in length and enclosing 77 acres. Habitat fencing is constructed with 7-foot-tall T-posts placed at 10-15-foot intervals and inserted into the ground to a depth of approximately one foot. Posts are strung with UV-resistant polypropylene mesh cintoflex-C utility netting that is 6 feet wide. Mesh openings are 45 mm x 50 mm. The mesh utility netting is affixed to posts with black, UV-resistant cable ties. The bottom of the mesh is placed level with the ground and not intentionally buried to afford movement opportunities to precocial fledgling western snowy plovers, which must maintain access to the shoreline for feeding. This habitat fencing would remain in place year-round and be maintained and repaired as needed on an annual basis.

Temporary symbolic fencing is also proposed to protect nesting areas outside of the year-round habitat fencing areas. The location and area for this fencing will be evaluated, and deployed on an as-needed basis, when nests or chicks occur outside of fences. In the case of a nest, the symbolic fencing would be placed with a buffer that is

a sufficient distance to prevent disturbance. Areas with chicks may be fenced to provide a safe area of retreat near forage locations at the tide line. In both cases, fences will be placed to allow public access to the mean high tide line with a minimum of a 50 feet corridor for public access. Symbolic fencing may also be deployed to protect the roost of a winter flock if a large enough group establishes in a consistent area. Proposed symbolic fencing is made up of 4-foot wood posts inserted into the sand to a depth of one foot, placed up to 20 feet apart, with a yellow polypropylene rope or pink kite string wrapped around the top of each post and strung between the posts. A more durable version of symbolic fencing uses $\frac{5}{8}$ -inch or $\frac{1}{2}$ -inch diameter thimble-eye anchor rods that are 6 feet long. Rods are inserted into the ground 1-2 feet, placed 10-18-feet apart, and strung with wire cable. Symbolic fencing composed of wood posts will be removed from nesting areas after the end of nesting season. Symbolic fencing composed of metal rods and cable will be removed and reset when buried.

The applicants propose to make annual adjustments to the location and extent of symbolic fencing based on the circumstances. The proposed maximum expansion of fencing could reach up to 150-acres; however, gaps between fencing will remain to allow access to the tide line. Routine maintenance and repairs to the year-round fencing will occur outside of the nesting periods of the endangered species while erecting symbolic fencing can occur year-round with minimal to no disturbance. Fences buried by sand will be dug out and reset away from growing dunes, or in cases where posts have been exposed by retreating sand they will be reset with a post pounder. In both cases fence lines will be set to avoid dune features. All habitat fence maintenance activities will be focused bi-annually in the fall and early spring (between October-March) to avoid bird nesting season, with some exceptions for monitoring and fence replacement or adaptation, which will be performed on foot with the oversight of avian biological monitors.

Two types of signs (Enforcement and Share the Shore) will be posted on the fences to inform the public about the purpose and restrictions of the habitat fencing. Signs will be affixed directly to the fences at locations where the public is most likely to encounter the fence: near trails and trail heads at entrances to the beach, trail junctions, and intermittently along the fence line. Signs will be up to 11x17 inches in both English and Spanish.

Invasive Plant Species Removal and Vegetation Maintenance

The proposed project includes the control and removal of targeted invasive plant species using an Integrated Pest Management (IPM) approach. The University of California Statewide IPM Program defines IPM as an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Pest control materials are

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selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment.

For this project targeted invasive plant removal activities will primarily occur by hand or with hand tools like saws, clippers, shovels or weed wrenches. Some mechanized tools may also be used for larger plants or in areas that require larger areas of thatch control to discourage targeted invasive plants. Mechanical hand tools activities include the use of tractors, mowers, weed-whackers, chain-saws, or a motorized weed winch. Invasive trees with less than 10-inch diameter trunks at breast height and large invasive shrubs may require the use of a chainsaw or hand saws to remove large branches. These activities may also be needed to prep such trees and shrubs for herbicide treatments. Large woody debris may be chipped and left onsite in the immediate vicinity where removed to prevent erosion, or stabilize existing trails, provided the debris does not pose a risk for increased spread of invasive plants and does not impact sensitive habitats. Woody invasive plant material will otherwise be removed and disposed in an offsite landfill.

Hand or mechanical removal would not be used where ground disturbance may impact sensitive species or habitat, or where ground disturbance may facilitate new infestation by invasive plants. Vegetation will be transported by authorized vehicles using existing service trails and roads. Invasive plant removal activities will be focused bi-annually in the fall and early spring (between October-March) to avoid spring flowering and bird nesting season. In addition, to ensure that sensitive or listed plants in the project area are avoided, before any work crews begin activities a qualified botanist will survey, flag, and delineate a 25-foot buffer around any sensitive or listed plants observed. The Project Partners will ensure that qualified biologists/botanists conduct environmental training for personnel/contractors. Prior to any major vegetation removal activities (removal with heavy equipment or removal of dense stands of non-native vegetation), a qualified biologist will conduct a single pre-project biological and botanical survey of the immediate work areas and adjacent areas. The pre-project survey will occur no earlier than 3 weeks prior to the start of work. The pre-project survey would be a general survey to confirm the presence/absence of sensitive botanical, aquatic or terrestrial species or resources likely to be found in the area during the proposed activity. A brief email summary report will be submitted to CDFW and USFWS no later than one week prior to the start of work.

Limbing/trimming of Monterey cypress trees (*Cupressus macrocarpa*) is proposed on up to 10 trees. Limbing/trimming will only be completed if needed to manage damaging human uses (e.g., illegal camping, fires, trash disposal) that result in disturbances to native habitats and/or wildlife. Trees will be trimmed up to 8 feet from the base of the tree to open up the lower canopy and before any trimming occurs, an environmental specialist shall inspect each tree for any signs of active bird nesting and appropriate measures shall be followed to not disturb the nest or fledgling birds.

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When it is determined that target invasive plants are infeasible to manage through manual or mechanical means, chemical treatment methods will utilize the least toxic and least persistent herbicides, minimize the use of herbicide, and avoid non-target impacts. The Project Partners propose to limit the use of herbicides to the extent possible and will use other non-chemical control methods where practicable. Hand or mechanical removal methods include pulling, girdling, and digging out invasive plant species depending on the stage of life for each plant. Non-chemical control is generally prescribed for early-stage plants that are saplings or seedlings. Mature plants and regrowing stumps and roots would require additional hand removal or herbicide application. Full eradication may require follow up herbicide application where stumps are left after mechanical removal for invasive trees and bushes. Pre- and post-emergent invasive plants such as acacia, European beachgrass, arundo, poison hemlock, fennel, myoporum, petite-licorice, Bahaman aster, tamarisk, Mexican fan palm, perennial pepperweed, crimson bottle brush, and Brazilian pepper may require follow-up foliar or cut and daub herbicide application. Application would be limited to 1 application per site per year; however, spot follow-up treatments may occur within that period. A minimum 25-foot treatment buffer would be maintained from all water resources. Although herbicide application would not occur directly within water, herbicides approved with aquatic site codes will be used. The primary herbicide selected is glyphosate because it is a low risk/safe herbicide for wildlife, it is a systemic herbicide that is more effective at killing target species than contact herbicides, it is a non-specific herbicide that is effective at killing many species of invasive plants, and it leaves no soil residuals (i.e. it is immobile once in contact with soil). However, for this project a few additional herbicides that are grass or broad-leaf specific are proposed for select target invasives. A 'cut and daub' method for trees and shrubs may be used when appropriate for the most effective treatment or when mechanical removal of root mass is too disruptive or near sensitive species or habitats. Or a 'drill and squirt' method may be used if woody biomass is to be left standing to provide avian nesting habitat. Once an area is treated, follow-up spot applications may be necessary in subsequent years to assure the invasive species are sufficiently controlled.

Vegetation treatment areas (manual, mechanical, herbicide) will be quantitatively monitored (% cover) and photo-monitored following treatment at least once annually for the duration of the project to evaluate effectiveness and progress toward goals for eliminating High, and reducing Moderate and Limited, California Invasive Plant Council (Cal-IPC)--rated invasive plant species on the properties, and to evaluate non-target impacts, and track native vegetation recovery.

The proposed project does not include habitat restoration or revegetation; however, as part of vegetation removal activities, it may be necessary to replant treated areas with native vegetation in some cases to minimize weed establishment or minimize soil erosion. Therefore, the applicants propose an adaptive management approach in which revegetation would be conducted only if total vegetative cover is less than 10% due to invasive plant removal, and the treatment area is not within a 'bare', 'salt panne' or other

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'unvegetated' habitat type as described on the project's vegetation map, or the treatment area is in immediate risk of erosion in proximity to a waterbody.

Access Road and Trail Maintenance

Ormond Beach can be accessed by the public via two roads within the City of Oxnard – Arnold Road and Perkins Road. Ormond Beach can also be entered by foot on the far western end from the City of Port Hueneme, via Hueneme Beach.

Arnold Road is on the eastern, downcoast end of Ormond Beach, adjacent to the Ventura County Naval Base boundary fence. Arnold Road terminates in a parking lot near the beach. The parking lot has portable toilets and trash cans maintained by the City of Oxnard. The parking lot entrance has a vehicle gate that is closed between dusk and dawn by a volunteer docent. A second vehicle gate between the parking lot and the beach is closed and locked to control vehicle access to the beach. A pedestrian gate is open during beach hours from dusk to dawn for pedestrian passage. Beyond the second gate, Arnold Road continues for 0.25 miles as an unmaintained asphalt roadway before terminating in the foredune area of the beach. Public safety and other permitted vehicles typically access the beach over this route. The public also usually walks this path to the beach. A foot trail splits off after the second vehicle gate. This trail, referred to as the "Canal Trail," parallels a canal running behind an inland salt panne that is also an ephemeral wetland. The Canal Trail is about 1.1 miles long and is used as an alternative entrance to the beach, terminating behind the beach foredunes roughly 0.5 miles north of the Arnold Road terminus access point. When accessible, the Canal Trail is an alternative pedestrian route and access route for the project partners to perform the proposed project activities. The second access road to Ormond Beach is Perkins Road on the western, upcoast portion of Ormond Beach. At the end of Perkins Road, next to a City-owned parking lot, there is a footpath that leads from the parking lot to the Ormond Lagoon. Rarely, at low water levels, when the lagoon mouth is open, the beach also can be accessed by foot from this point.

There are also two private, unimproved service roads/trails located on TNC's property in the north-central portion of the subject site. These roads are accessed via locked gates at the terminus of East McWane Boulevard and West McWane Boulevard. The road from East McWane leads to a gate at the rear of the foredunes near the northwest end of Ormond Beach and southeast of Ormond Lagoon. The West McWane road leads to the western bank of the Ormond Lagoon Waterway. These service roads/trails are not for public access and are mainly used for public safety and resource management maintenance activities. Motorized vehicles are generally prohibited in Ormond Beach, except for land management activities and to protect public safety and natural resources.

The proposed project includes limited road and trail maintenance activities. All roads and walking trails will be evaluated annually to determine if vegetation is impeding vehicle access for resource protection management or public safety needs, including

emergency circumstances. There will not be any grading or excavation of any sand or dirt involved in the road and trail maintenance activities, which would primarily involve clearing overgrown vegetation; however, small potholes and minor infilling may be required to maintain road/trail integrity using a minor amount of adjacent soil and hand tools. The Canal Trail is currently overgrown with vegetation and vegetation clearance using hand and mechanical tools is proposed to maintain a 5-foot-wide foot path. The type of vegetation to be removed is characterized as coyote brush scrub (*Baccharis pillularis* Shrubland Alliance). A maximum of 14,500 square feet of vegetation clearance would be required to maintain the 5-foot-wide path. Vegetation clearance, maintenance and repair activities are proposed to occur outside of the bird nesting period between October-March.

Field Data and Collection

Field data collection and research throughout the entire project area is also proposed to help inform future habitat restoration efforts. Surface and groundwater will be monitored for water levels and groundwater depths, velocity, salinity, and composition. Soil samples will also be collected to determine soil characteristics such as salinity and composition. A time-lapse camera on a wooden or metal pipe post with lock box connected to a small solar panel would be installed at Ormond Lagoon to record the seasonal transitions of the waterways and gather data of lagoon breaching events to develop models for sea level rise and understand the waterbody. The camera will solely record the expected area of the lagoon breach and will support further biological research for the project partners to assist with the interpretation of lagoon changes. Site studies were previously conducted in 2017, including a general assessment of biological status and needs, collection of hydrologic and topographic data, modeling of water balance and lagoon inlet morphology, and assessment of sea level rise resiliency. However, the continuation of data collection will allow the Project Partners to further analyze the project site and adjust future restoration plans as needed.

Surface water elevation gauges will be installed in six locations to measure stream and open-water surface levels. Two of these gauges will also include a salinity monitor, and the gauges are stainless steel metal cylinders approximately 1 inch in diameter. The water level gauges are approximately 6 inches long and the water level and salinity gauge is approximately 8 inches long. Monitoring of all gauges for servicing and data download will occur about every two months. The gauge and all the mounting hardware will be completely removed after 6 months. Any minor depressions or holes left from the equipment would be filled with adjacent soil.

Ground water elevation and salinity monitoring will also occur at six locations and three locations include salinity gauges. Groundwater monitoring wells will be established by augering a hole in the ground with a 4-inch auger to a depth of approximately 2 inches deeper than the bottom of the well. The monitoring gauges will be placed in the auger holes where they will be capped in sand and clay. Soil sampling and testing is also proposed. Up to 60 soil samples will be collected by hand auger and sent for lab testing,

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with about 30 to 40 taken first in late summer. Follow-up soil samples may be conducted depending on outcomes of groundwater monitoring and first round soil test results. Additional samples may be evaluated qualitatively for texture and salinity only. Up to two sampling events are expected.

All field data collection activities will be focused bi-annually in the fall and early spring (between October – March) to avoid bird nesting season, with some exceptions for servicing instruments and data download, which will be performed on foot with the oversight of avian and biological monitors. All access will be via existing access trails and from identified access locations and staging areas. No off-trail vehicular travel will be permitted.

B. Project Jurisdiction and Consolidated Review

The subject project is being considered as a consolidated CDP. The proposed project is partially located within the City of Oxnard's permit jurisdiction under its certified Local Coastal Plan (LCP) and the retained jurisdiction of the Coastal Commission. The City of Oxnard would typically have jurisdiction over the portions of the project within its coastal development permit jurisdiction. However, Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated coastal development permit application, when certain criteria are satisfied, for the entirety of a proposed project that would otherwise require separate coastal development permits from both a local government with a certified local coastal program and the Commission. Pursuant to Section 30601.3(a)(2), the applicant, appropriate local government, and the Commission may agree to consolidate a permit action for a project that spans local and state jurisdictions. In this case, the City of Oxnard is both a co-applicant and the appropriate local government. The applicants have requested a consolidated permit and the City requested that the Commission assume jurisdiction over all activities associated with the proposed project. The Executive Director agreed to the consolidation on behalf of the Commission. The standard of review for a consolidated coastal development permit application submitted pursuant to Section 30601.3(a) is Chapter 3 of the Coastal Act with the applicable policies of the City of Oxnard's certified LCP used as guidance (CA Pub Res Code § 30601.3).

C. Biological Resources and Water Quality

Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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Coastal Act Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Coastal Act Section 30107.5 defines “environmentally sensitive habitat area” as:

...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal Act Sections 30230, 30231, and 30240 cited above are incorporated by reference into the City of Oxnard certified Local Coastal Plan.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

Site Biological Resources

The existing habitats in the project vicinity include sandy, dune-lined beach, salt panne, lagoon, uplands, salt and brackish marshes, seasonal wetlands, and willow scrubs.

Rare species inhabit the project area, and the diversity of native plants, wildlife, and habitats is high. The beach provides breeding habitat for pacific coast populations of the state and federally-listed threatened western snowy plover (*Charadrius nivosus ssp. nivosus*) and the state- and federally-listed endangered California least tern (*Sternula antillarum browni*), that both nest and raise their young at Ormond Beach and which is identified as federally-designated critical habitat and require special management consideration and protection. The Ormond Beach area also contains federally-designated critical habitat for the federally-listed endangered tidewater goby (*Eucyclogobius newberryi*). State- and federally-listed endangered light-footed clapper or Ridgeway's rail (*Rallus longirostris levipes*), and the state-listed endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*). The project site hosts several special status plants throughout the sandy beach and wetland areas. Red sand verbena (*Abronia maritima*) can be found within the dunes that almost line the entirety of the beach. Salt marsh bird's beak (*Cordylanthus maritimus ssp. maritimus*), Coulter's goldfields (*Lasthenia glabrata ssp. coulteri*), and southwestern spiny rush (*Juncus acutus ssp. leopoldii*) are in various areas and inhabit freshwater wetlands east of the beach. Much of the existing natural habitat of the Ormond Beach area is designated as environmentally sensitive habitat area (ESHA) in the City of Oxnard certified Local Coastal Program. Based on the biological information provided by the applicants, the project area contains coastal dune, salt panne, lagoon, upland scrub, salt and brackish marsh, and seasonal wetland habitats that are considered environmentally sensitive habitat areas (ESHA).

Habitat Fencing

Annual nesting and brooding by the western snowy plover and California least tern is a seasonal occurrence because the salt panne and dune areas offer protection from wind and wave activity. The California least tern nests on the bare sand near the lagoon, and according to the applicant's 2017 biological information, there were more than two-dozen nests established there as of late June 2017. The western snowy plover inhabits the beach, dune, and salt panne areas, and according to the applicant's 2017 biological information, nests were dispersed over the entire 2-mile length of Ormond Beach, and chicks and fledglings were either at the salt panne to the south or near the lagoon. Disturbance of nests by humans and dogs, and especially predation of plover chicks by gulls and ravens, have impacted nesting and fledgling success over the years.

Habitat fencing was previously installed in this area under temporary or emergency authorizations to protect the nesting shorebird areas from disturbance. Fences provide a refuge from disturbance for chicks and nesting adults and increases nesting success. The proposed project includes retaining the year-round and seasonal fencing to protect nesting shorebirds in the beach area of the site, the locations of which are based on surveyed locations of nesting clusters of the Western snowy plover and California least tern. The proposed year-round fencing would be located in two main locations: the "North Habitat Fence" totaling 0.7 miles in length and enclosing 18 acres, and the "South Habitat Fence" totaling 1.4 miles in length and enclosing 77 acres. To provide as

much protection as possible for shorebirds, annual adjustments done with symbolic fencing are needed and the maximum expansion of fencing could reach up to 150 acres; however, gaps between fencing will remain to allow public access to the tide line. In both cases fence lines will be set to avoid dune features. All habitat fence maintenance activities will be focused bi-annually in the fall and early spring (between October-March) to avoid bird nesting season with some exceptions for monitoring and fence replacement or adaptation which will be performed on foot with the oversight of avian biological monitors. The proposed project also includes the installation of two types of signs (Enforcement and Share the Shore) posted on the fences to inform the public about the purpose and restrictions of the habitat fencing.

The proposed habitat fencing and associated signage would constitute development within and adjacent to ESHA, which must be an allowable use to be found consistent with Section 30240(a). This development is proposed as enhancement to protect the present and continued existence of ESHA. Therefore, the habitat enhancement is an allowable use in ESHA. The fencing and signage are sited and designed to prevent impacts which would degrade an environmentally sensitive habitat area, consistent with Section 30240(b). In fact, the fencing would have a beneficial effect on snowy plover and least tern habitat areas and the associated signage informing the public of appropriate use and access would serve to protect environmentally sensitive habitat areas consistent with Section 30240. The proposed project includes adaptive management and routine maintenance of the habitat fencing. The Commission finds that there are potential adverse effects to biological resources and water quality if the proposed fencing is not monitored and maintained in the manner that it is proposed. To ensure that the habitat fences and signage are maintained properly and do not blow or wash into the ocean or habitat area at any time, **Special Condition Two (2)** is necessary to require the applicant to conform to the proposed habitat protection fencing plan and perform monitoring and maintenance of the approved permanent habitat fencing and seasonal symbolic fencing throughout the term of this permit. Adaptive management of the fencing will allow the applicant to provide suitable protection of nesting shorebirds without affecting public access to the beach. And **Special Condition Two (2)** requires that an approved environmental specialist or a biological monitor must be present and monitor any adjustments, maintenance, or repair of the fencing to avoid potential disruptions to nesting birds.

Invasive Removal, Vegetation Maintenance, and Field Data Collection

Ormond Beach contains diverse coastal beach and seasonal wetland habitats that support numerous sensitive plant and wildlife species. Many of these species are directly affected by invasive plant species. Invasive plant species occur at various locations on all three Project Partner properties, and in both the more natural and disturbed habitats of the properties. A native and non-native plant inventory was done in 2007, re-assessed in 2015, and since 2015, a few plant species have been treated with herbicide and removed under emergency authorizations; however, invasive species remain and more have appeared.

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There are 21 invasive plant species identified in the project area, including acacia (*Acacia* spp.), European beachgrass (*Ammophila arenaria*), arundo (*Arundo donax*), black mustard (*Brassica nigra*), riggut brome (*Bromus diandrus*), iceplant (*Carpobrotus edulis*), spotted knapweed (*Centaurea stoebe* ssp. *micranthos*), poison hemlock (*Conium maculatum*), pampas grass (*Cortaderia selloana*), crimson bottlebrush (*Callistemon citrinus*), fennel (*Foeniculum vulgare*), perennial pepperweed (*Lepidium latifolium*), sweet clover (*Melilotus alba*), Crystalline iceplant (*Mesembryanthemum crystallinum*), slenderleaf iceplant (*Mesembryanthemum nodiflorum*), myoporum (*Myoporum laetum*), petite-licorice (*Plectostachys serpyllifolia*), Bahaman aster (*Symphotrichum subulatum* var. *elongatum*), Brazilian pepper (*Schinus terebinthifolius*), tamarisk (*Tamarisk ramosissima*), and Mexican fan palm (*Washingtonia robusta*). The total collective area of invasive plant species is approximately 50 acres throughout the project site.

Some of these species are identified in the California Invasive Plant Council (Cal-IPC) with an invasiveness rating of “High,” “Moderate,” or “Limited” in Cal-IPC’s California Invasive Plant Inventory Database. (Species identified as “High” are defined by Cal-IPC to have “severe ecological impacts on physical processes, plant and animal communities, and vegetation structure.”) Cal-IPC also identifies other species in the Ormond Beach area in its Watchlist Inventory as invasive species of concern that should be monitored closely if detected. The plant species in the project area with a Cal-IPC “High” invasiveness rating include arundo, European beachgrass, iceplant, spotted knapweed, pampas grass, fennel, and tamarisk. The plant species present with a Cal-IPC “Moderate” invasiveness rating include myoporum, acacia, black mustard, riggut brome, poison hemlock, crystalline iceplant, and Mexican fan palm.

The project includes control and removal of targeted invasive plant species, with priority given to species with the highest Cal-IPC invasiveness rating and infestation extent, as well as invasive species (e.g. myoporum) that attract human encampments and illegal activities that impact public safety and natural resources. Moderately invasive species that do not facilitate illegal activities may be de-prioritized or treated and left standing to provide avian nesting habitat (e.g. Mexican fan palm).

Techniques for removal and control of the targeted invasive plants include hand and mechanical removal, and herbicide treatment. The applicants propose to use non-chemical control methods where practicable and limit the use of herbicides to the extent possible. The applicants have also proposed herbicide application restrictions and conservation measures, including limiting the locations, conditions, and frequency of applications, and using herbicides approved for aquatic use. The applicants have indicated that the herbicide glyphosate would be employed the most because it is a low risk/safe herbicide for wildlife, it is a systemic herbicide that is more effective at killing target species than contact herbicides, it is a non-specific herbicide that is effective at killing many species of invasive plants, and it leaves no soil residuals (i.e. it is immobile once in contact with soil). The applicants have provided an addendum to their project description that clearly outlines the specific plant types for each kind of herbicide

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proposed and defines which herbicides are or are not appropriate near aquatic habitats. It further describes the herbicide and surfactant formulas (concentration/rate) that are the least toxic and best to use for the specific target invasives species infestations. In addition to Glyphosate formulations, the other herbicide formulations include Clethodim, Glyphosate/Imazapyr, Triclopyr, and Chlorsulfuron which target grasses, applications for non-specific plants and cut-stumps, several broadleaf species, and targeted broadleaf species, respectively. The Pest Control Advisor (PCA) or Qualified Applicator (QAL) will follow the label instructions for all of these California certified herbicides including seasonal timing restrictions, wind speed, rainfall, temperature, and ground moisture levels. In addition, herbicides will not be applied when rain is forecasted to occur within 24 hours, or during a rain event or other adverse weather conditions (e.g., snow, fog). No work will occur in dune and salt panne habitats, wetlands, or riparian habitats from March 1st to September 15th when State and Federal listed bird species may be present unless otherwise approved by CDFW and USFWS. Any sensitive plants identified will be flagged and avoided by a delineated 10-foot buffer.

The proposed project also includes limited road and trail maintenance activities, consisting of primarily clearing overgrown coyote brush scrub vegetation along existing established roads/trails using hand and mechanical tools to maintain a five-foot wide path. Vegetation clearance, maintenance and repair activities are proposed to occur outside of the bird nesting period between October-March. In addition to implementing best management practices during invasive plant removal and vegetation maintenance activities, the applicants also propose protection measures to avoid impacts to nesting birds. Field data collection and monitoring activities including the installation of groundwater monitoring wells, water level and salinity gauges, and time-lapse photographic monitoring stations are also proposed.

Invasive plants inhibit the growth of or entirely replace native plants. Invasive plant presence in the landscape and dominance in an area also results in the loss of habitat resilience, with decreases in shelter and food sources for native animals. Invasive plant species removal to help protect and restore the habitat areas will occur in ESHA. In addition, limited vegetation maintenance along existing trails and roads for site access, as well as field data collection for ongoing research for habitat restoration purposes, will occur in ESHA. Coastal Act Section 30240(a) requires ESHA be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. The proposed activities to protect and restore the habitat is a use dependent on the resource; however, in order for the project to be consistent with Section 30240(a), the proposed activities must not result in significant disruption of habitat values.

In this case, the proposed project includes the implementation of best management practices intended to avoid impacts to sensitive species and habitat, such as performing plant removal activities bi-annually in the fall and early spring (between October-March) to avoid flowering and bird nesting season, conducting pre-project biological and botanical surveys of the work areas and flagging sensitive areas and establishing

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buffers prior to the start of work, performing environmental training for personnel/contractors, and using existing service trails and roads to perform the work. In addition, Dr. Jonna Engel, CCC Environmental Program Manager, has carefully reviewed the *Project Description and Biological Assessment for Ormond Beach Area Partnership Habitat and Species Conservation Activities* and the *Invasive Plant Species Removal Activities Supplemental Report* regarding the applicants proposal for employing an Integrated Pest Management (IPM) approach for eradicating invasive plants, including the use of herbicides, and finds their approach to be comprehensive, thoughtful, appropriate, and protective of natural resources and water quality. The limited use of herbicides proposed here is in keeping with an IPM approach where the least environmentally damaging method for removing the pest, in this case non-native invasive plants, is first considered.

The proposed project does not include restoration or revegetation work; however, as part of vegetation removal activities, the applicants have indicated that it may be necessary to replant treated areas with native vegetation in some cases to minimize weed establishment or minimize soil erosion. Therefore, the applicants propose an adaptive management approach in which revegetation using container planting or seed with native species appropriate for the habitat type would be conducted only if total vegetative cover is less than 10% due to invasive plant removal, and the treatment area is not within a 'bare,' 'salt panne' or other 'unvegetated' habitat type as shown on the applicant's vegetation map, or the treatment area is in immediate risk of erosion in proximity to a waterbody.

To ensure that adequate measures are implemented to protect sensitive habitats from significant disruption of habitat values and to protect the biological productivity of coastal waters consistent with Coastal Act Sections 30240 and 30231 during project activities, the Commission finds that **Special Conditions Four (4)** and **Five (5)** are necessary to require the implementation of best management practices and nesting bird protection measures. Special Condition 4 also specifies the limits for selective herbicide application that may be employed for purposes of habitat restoration only consistent with the applicant's specification procedures. Special Condition 5 specifies that vegetation maintenance activities shall be conducted outside the bird nesting season to the maximum extent feasible, and if work is conducted during the bird nesting season (February 1 - September 1), a qualified biologist shall conduct a survey for nesting birds in and adjacent to the project work area prior to any tree trimming and/or non-native tree removal each day such activities are conducted. If any sensitive bird habitat area is detected (i.e., detection of an active nesting area of sensitive species), the biologist shall determine the extent of a work-free buffer zone to be established around the nest, and work in the buffer zone shall be delayed until after the young have fledged and the nest is vacated, as determined by additional surveys conducted by a qualified biologist. The work-free buffer zone shall be a minimum of 300 feet for nesting raptors and a minimum of 100 feet for other special-status bird species. A biologist shall also be present on site during all tree trimming and non-native tree removal activities to enforce the protective buffers and monitor activities.

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Furthermore, in order to ensure that any potential changed circumstances which may be discovered at some future point in time, such as new information regarding sensitive habitat and wildlife resources on site, are considered, **Special Condition One (1)** specifically limits the term of the subject permit to a period of no more than five (5) years from the date of Commission action.

Lastly, in order to ensure that the proposed project is consistent with all regulations of other agencies, **Special Condition Seven (7)** requires the applicants to agree to obtain and provide evidence to the Executive Director of all necessary approvals from the California Department of Fish and Wildlife, United States Army Corps of Engineers, and/or the Regional Water Quality Control Board prior to commencement of project activities, or evidence that notice has been provided to such agencies and no permit is required. The applicants shall inform the Executive Director if any changes to the project are required by any other such authorizations. Any such changes shall not be incorporated into the project until a Commission amendment to this CDP is approved, unless the Executive Director determines that no amendment is legally required.

For the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act, which are incorporated by reference into the City of Oxnard certified Local Coastal Plan.

C. Scenic Resources and Public Access and Recreation

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30214 elaborates on access management considerations, providing, in relevant part, that:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

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(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area....

Coastal Act Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Sections 30210, 30211, 30214, and 30251 cited above are incorporated by reference into the City of Oxnard certified Local Coastal Plan. Coastal Act Sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Section 30214 allows for limits to public access depending on the fragility of natural resources in the area. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The proposed project activities at Ormond Beach would be located within and adjacent to a public beach area that supports beachgoing, nature walks, and bird watching coastal activities. Currently, public access directly to the beach in this area is limited. Road access to the southernmost area through Arnold Road off East Hueneme Road, and the northwest lagoon area through Perkins Road off West Hueneme Road are the closest points to visit the beach and wetland areas. Limited off-street parking is provided for beach users at the terminus of both Perkins and Arnold Roads. The Project Partners are currently planning and developing an 'Ormond Beach Restoration and Public Access Plan' (OBRAP) to protect and restore the natural habitats of this area and to enhance opportunities for people to easily and safely visit Ormond Beach and enjoy the nature, educational opportunities, and recreation that are compatible with the restored ecosystem. The proposed project is intended to enable limited interim habitat maintenance activities at the site while the larger restoration and public access plan is being further developed and finalized.

As described in the Section B of this staff report above, the proposed habitat fencing would have a beneficial effect on snowy plover and least tern habitat areas and the associated signage informing the public of appropriate use and access would serve to

protect environmentally sensitive habitat areas consistent with Section 30240 of the Coastal Act. The proposed habitat fencing is designed to allow the public to continue accessing the beach and would provide at least a 50-foot area between the fencing and the waterline. There would be gaps in fencing as well to allow the public to reach the shoreline from the designated public access points. This minimizes any disturbance caused by human activity upon the nesting endangered bird species and would not disrupt the public's ability to use the beach. The public access policies of the Coastal Act allow for the manner of public access to be managed, as appropriate, in cases where fragile natural resources could be impacted. Under the proposed project, a portion of the existing beach would be restricted from recreational uses because it will be within fenced habitat protection areas. However, the proposed protection measures strive to balance the management of sensitive resources with continued public access to the coast. Though access and recreation would be prohibited in the protected stretch of beach, the protected area represents a small portion of the total publicly available beach. As proposed, the project would maintain access to the beach and linear access adjacent to the protected areas. Nearby stretches of beach would remain available for recreational use year around. Therefore, the Commission finds that access and use restrictions are appropriate given the natural resource constraints at the site, and that adequate access to the beach is maintained in the area.

The proposed project includes adaptive management and routine maintenance of the habitat fencing. The Commission finds that there are potential adverse effects to public access if the project is not carried out in the manner that it is proposed. To ensure that the habitat fences and signage are maintained properly to avoid adverse impacts to public access, **Special Condition Two (2)** is necessary to require the applicants to conform to the proposed habitat protection fencing plan and perform monitoring and maintenance of the approved permanent habitat fencing and seasonal symbolic fencing throughout the term of this permit. Adaptive management of the fencing will allow the applicants to provide suitable protection of nesting shorebirds without affecting public access to the beach.

In addition, the proposed project has the potential to temporarily impact public access during site work and staging associated with the proposed maintenance activities. To ensure that safe public access is available and implemented during approved site work activities consistent with the relevant public access policies of the Coastal Act cited above, the Commission finds **Special Condition Three (3)** is necessary requiring submittal of a public access protection plan to minimize impacts to public access within the project area during approved activities. The public access plan shall describe the methods (including signs, fencing, etc.) by which safe public access through or around project activity areas and staging areas shall be maintained during all project activities. These staging areas found in [Exhibit 2](#) and [Exhibit 3](#) include private property staged on existing disturbed land (trails and dirt roads) owned by the project applicants and includes public parking lots at the end of Arnold Road and Perkins Road. The plan shall also include signs as necessary directing the public to alternative parking areas or any temporary public access rerouting necessary for project activities. Where use of public

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parking spaces is unavoidable, only the minimum number of public parking spaces that are required for the staging of equipment, materials, and work crew parking shall be used. The applicants shall maintain public access pursuant to the approved public access protection plan and any changes shall be reported to the Executive Director.

The proposed maintenance activities would not adversely impact scenic public views in this area. In fact, the removal of invasive species and limited vegetation maintenance proposed would enhance the scenic quality of the natural landscape. The proposed permanent and symbolic habitat fencing will also not disturb scenic coastal and shoreline views as the design of the mesh habitat fence is visually permeable, and would be low-profile compared to the elevations of the dune and wetland areas. The location and design would minimize any visual alterations of the beach area, but also serve to protect the environmentally sensitive areas from any human disturbances.

For these reasons, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30211, 30212, 30214, and 30251, which are incorporated by reference into the City of Oxnard certified Local Coastal Plan.

D. Archaeological and Tribal Cultural Resources and Tribal Consultation

Section 30244 of the Coastal Act (which is also incorporated by reference into the City of Oxnard certified Local Coastal Plan) states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological and tribal cultural resources are significant to an understanding of cultural, environmental, biological, and geological history. Coastal Act Section 30244 requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures. Degradation of archaeological and tribal cultural resources can occur if a project is not properly monitored and managed during earth moving activities, construction, and site preparation.

Consistent with the Commission's Tribal Consultation Policy, letters were sent describing the proposed project via mail and email to all individuals on the Native American Heritage Commission (NAHC) contact list. Staff received a response from the Barbareño/Ventureño Band of Mission Indians requesting consultation. During the initial consultation meeting, the Tribe's representatives expressed a desire to have a representative of the Tribe be present to monitor the proposed invasive plant removal and road/trail maintenance activities, as those have the potential to be ground-disturbing activities that may potentially expose or impact cultural resources. During the initial consultation meeting, the Tribe's representatives also expressed concern regarding the proposed use of herbicides for invasive species control, as those have the

potential to adversely impact the environment and soils on the site and requested that alternatives be evaluated to avoid the use of herbicides. Staff has coordinated with the applicants and Commission Staff Ecologist Dr. Jonna Engel regarding the proposed methods for invasive species removal in this case and received additional information that clarified the applicant's integrated pest management approach, as described in Section B of this staff report. Staff has discussed the proposed approach and Special Condition 4 with the Tribe's representative and they indicated that the plan was responsive to their concerns.

The Commission finds that potential adverse effects may occur to cultural resources as a result of the proposed project and that reasonable mitigation measures should be required pursuant to Section 30244 of the Coastal Act. Therefore, consistent with the Tribe's request, **Special Condition Eight (8)** is necessary which requires the applicants to notify the Barbareño/Ventureño Band of Mission Indians, and any other tribal entities with documented ancestral ties to the area that express interest in monitoring, of the construction schedule and arrange for tribal representative(s) who express interest in monitoring to be present to observe ground-disturbing activities. Special Condition 8 also requires development to be performed in a manner that minimizes ground disturbance to the maximum extent feasible, and if an area of cultural deposits is discovered during project activities, all activities that have the potential to uncover or otherwise disturb cultural deposits in the area of the discovery shall cease and a qualified cultural resource specialist, in consultation with tribal representatives, must analyze the significance of the find. To recommence activities following discovery of cultural deposits or human remains, the applicants are required to submit a supplementary archaeological plan for the review and approval of the Executive Director and obtain a permit amendment for changes the Executive Director determines are not *de minimis* in nature and scope.

The Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30244, which is incorporated by reference into the City of Oxnard certified Local Coastal Plan.

E. Hazards

Section 30253 of the Coastal Act (which is incorporated by reference into the LCP), states, in pertinent part, that new development shall:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The project area is located in an area of the coastal zone that is subject to potential hazards from flooding, tidal action, high surf conditions, and storm surge. Although the proposed development is limited to temporary habitat protection fencing with signage, vegetation maintenance, and field data collection activities, there remains some inherent risk. Coastal Act policies require the Commission to assess the appropriate

degree of risk acceptable for the proposed development and to determine who should assume the risk. As such, the Commission finds that due to the possibility of storm waves, surges, and flooding, the applicants shall assume these risks as a condition of approval. As such, **Special Condition Six (6)** requires the applicants to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253, which is also incorporated by reference into the LCP.

F. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act ("CEQA"). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to any public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. **Special Conditions 1-8** are required to assure the project's consistency with Section 13096 of Title 14 of the California Code of Regulations. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.