

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Approving a Vesting Tentative)
Subdivision Map, Tract 8279, to Subdivide) Resolution No. 10012
Approximately 165 Acres into 351 Lots for)
Single Family Dwellings, Three Stormwater)
Retention Basin Parcels, Three Open Space)
Parcels, and One Water Reservoir Parcel,)
Located on the West Side of Kirker Pass Road,)
South of Existing City Limits, for the "Montreux)
Residential Subdivision, AP-10-684 (SUB).")

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On April 14, 2010, Louis Parsons, on behalf of Altec Homes, Inc. and Seecon Financial Inc., filed Application No. 10-684, requesting approval of: 1) a vesting tentative map to subdivide a 165 acre site into 356 single family residential lots; 2) a change in the pre-zoning designation of the site from HPD (Hillside Planned Development) District to RS-6 (Single Family Residential, 6,000 sq. ft. minimum lot sizes) District; and 3) a development agreement vesting the project entitlements for an extended term of approval. The project would also require subsequent annexation into the City of Pittsburg's city limits, the Contra Costa Water District (CCWD) service area and the Delta Diablo (DDSD) service area. The project site is located on the west side of Kirker Pass Road, immediately south of the existing city limit line. Assessor's Parcel Nos: 089-010-010; 089-020-009; -011; -014; & -015.
- B. An Environmental Impact Report (EIR) was prepared for the proposed project (SCH #2013032079).
- C. On June 19, 2015, the applicant submitted a revised vesting tentative subdivision map that eliminated four units in the northeast portion of the site (thereby reducing the total unit count from 356 to 351). Since the elimination of these four units would not increase the severity of any impacts discussed in the EIR, it was determined by staff that the EIR is still sufficient for the revised project, as proposed.
- D. On August 17, 2015, the City Council adopted Resolution No.15-13097, certifying that the Final EIR for the proposed project was prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. The Final EIR includes three documents by reference (the Initial Study, Draft EIR, and Recirculated Draft EIR), text changes to the Draft

and Recirculated Draft EIR, and responses to all comments received on the Draft and Recirculated Draft EIR's during the public review periods.

- E. The proposed subdivision is consistent with the proposed project analyzed in the EIR. The objectives of the proposed project are to:
1. provide additional moderate income housing opportunities within the community, consistent with General Plan goals, through development of a high end, high quality single family detached subdivision with large lots; and
 2. conserve open space by creating a "greenwall" (defined as open space with no water or sewer services passing through) on the southern 20 percent of the project site.
- F. On September 22, 2015, the Planning Commission adopted Resolution No. 10011, recommending approval of: 1) a change in pre-zoning for approximately 77 acres from HPD (Hillside Planned Development) District to RS-6 (Single Family Residential, 6,000 sq. ft. minimum lot sizes), and 2) a Development Agreement for the proposed project. The proposed subdivision is consistent with the pre-zoning designation recommended by the Planning Commission to the City Council in Resolution No. 10011.
- G. The proposed project conforms with the applicable General Plan land use designations of 'Low Density Residential,' 'Open Space,' and the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC).
- H. Approval of the proposed Vesting Tentative Subdivision Map for this project would be contingent on the City Council's final approval of the change in pre-zoning designations for the site, and the Local Agency Formation Commission's (LAFCO) approval of annexation of the project site to the City of Pittsburg, 'Delta Diablo' sanitation district (DDSD) and Contra Costa Water District (CCWD).
- I. Pursuant to section 17.20.060(c) of the Pittsburg Municipal Code (PMC), the Planning Commission may approve or conditionally approve a tentative map if it finds that:
1. the proposed map is consistent with the general plan and any applicable specific plan, or other applicable provision of PMC;
 2. the site is physically suitable for the type of development;
 3. the site is physically suitable for the proposed density of development;

4. the design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
 5. the design of the subdivision or the type of improvements will not cause serious public health problems; and
 6. the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
- J. On Friday, September 12, 2015, in accordance with Government Code sections 65090 and 65091 and PMC sections 17.16.060 and 18.14.020.D, a "Notice of Public Hearing" for the September 22, 2015, public hearing on this item was published in the East County Times; was posted at City Hall and in the "Public Notices" section of the City website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the developer, to the property owner, to owners of property located within 500 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice.
- K. On September 22, 2015, the Planning Commission held a public hearing for Vesting Tentative Subdivision Map Application No. 10-684, at which time oral and/or written testimony was considered.

Section 2. Authority

- A. Article XI, Section 7 of the California Constitution confers on cities the authority to regulate land use within their jurisdictions under the police power and to make and enforce ordinances to protect the public health, safety and welfare. Aesthetic reasons alone justify exercise of the police power. (Metromedia, Inc. vs. City of San Diego (1980) 264 C3d 848, 164 CR 510).
- B. The General Plan is the single most important planning document and represents the most comprehensive statement of the city's interests and welfare. (Government Code section 65300; Citizens of Goleta Valley vs. Board of Supervisors (1990) 52 CA3d 553, 276 CR 410.) In general, all land use decisions must be consistent with the general plan. Consistency exists between a city's land use action and the general plan when a city has officially adopted such a plan, and the various land uses approved are compatible with the objectives, policies, general land uses and programs specified in the plan. (Leshar Communications, Inc. vs. City of Walnut Creek (1990) 52 C3d 531, 277 CR1.)

- C. The Subdivision Map Act (Government Code section 66410, et seq.) vests in cities the power to regulate and control the design and improvement of subdivisions within their boundaries. (Government Code section 66411.) “Improvement” is broadly defined to include any specific improvement or type of improvement, the installation of which is necessary to ensure consistency with the General Plan. (Government Code section 66419 (b).)
- D. A city may not approve a tentative map unless it finds that the proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan. (Government Code section 66473.5.)
- E. The General Plan includes, among its objectives, designing aesthetically pleasing roadways, providing improvements that enhance neighborhood values, enforcing City ordinances that improve the appearance of residential neighborhoods, encouraging residential neighborhoods that are in close proximity to recreation facilities and maintaining lighting on city streets. To ensure that these goals are met, the General Plan requires:
 - 1. Improvements to or equitable cost-sharing for expansion of water, sewer and drainage facilities (General Plan policies 9-P-21, 11-P-7, 11-P-18). These improvements or fees are necessary to ensure that adequate facilities are available to serve new development without detriment to existing development. Public improvements including a new water tank, street lighting and other miscellaneous utilities are proposed with the Montreux Residential Subdivision.
 - 2. Construction of new parks, dedication of land for new parks, or payment of fees to help the City meet its park and recreation facility standards (General Plan policies 8-P-1, 8-P-2, 8-P-11).
- F. The following General Plan and Housing Element Goals and policies apply to the development associated with the proposed Vesting Tentative Subdivision Map:
 - 1. Goal 2-G-4: Provide a range of development intensities, with the highest intensities in Downtown and in areas accessible by transit and services, and lower intensities in the hillsides and at the southern edge. The project will offer estate size lots which will help diversify the intensity of development in the City.
 - 2. Goal 2-G-5: Promote a diversity of housing types, including opportunities for hillside estate development, as well as smaller lot, infill and high-density housing. The project offers estate sized development in the southern hills.
 - 3. Policy 2-P-24: Prohibit new development on designated ridgelines. Ensure that residential developers cluster housing units to reduce both

environmental and visual impacts of hillside development. The project proposes the preservation of significant ridgelines to the north and south of the main development area (within the low-laying valley area) and would not develop on any General Plan designated hillsides.

4. Policy 2-P-75: Cluster new residential development within the hills to maximize preservation of open space resources and viewsheds. The project would place all housing units within the existing valley, nestled between significant ridgelines to the north and south.
5. Housing Goal G-1: Foster development of a variety of housing types, densities and prices to balance the City's housing stock and meet Pittsburg's regional fair share housing needs for people of all income levels. The project would facilitate high-end housing for moderate and above moderate-income residents, while also including 35 income restricted accessory dwelling units which will allow extended families to live near each other, increase the City's affordable housing stock, and provide opportunities for homeowners to generate additional income.
6. Housing Policy P-1.2: Encourage the construction of both high-end and moderate-income housing in the southern foothills, downtown, along the waterfront, and throughout Pittsburg to provide above moderate-income housing opportunities in the community and to increase economic activity in the city. The project proposed high-end, estate sized development in the southern hills.

Section 3. Findings

- A. The Planning Commission hereby finds that based on the Planning staff report entitled, "Montreux Residential Subdivision, Tract 8279, AP-10-684 (RZ, DA, SUBD)," dated September 22, 2015, and based on all the information in the Planning Division files on the project, adopted and incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue, Pittsburg, and based on all written and oral testimony presented at the public hearing that:
 1. All recitals above are true and correct and are incorporated herein by reference.
 2. The Final EIR for the Montreux Residential Subdivision (SCH #2013032079), certified by the City Council on August 17, 2015 (Resolution No.15-13097), was prepared in compliance with Public Resources Code Section 21000 et seq., and the State CEQA Guidelines Section 15000 et seq.. All impacts have been analyzed in the EIR prepared for this project, and the Planning Commission has independently reviewed and considered the information contained therein, prior to making a decision on this vesting tentative subdivision map.

3. The proposed map is consistent with the General Plan, in that:
 - a. The General Plan designates the site as *'Low Density Residential'* and the allowable density range for this land use designation is one to seven units per gross acre. The proposed density onsite is 2.37 units per gross acre, which is within the allowable range and also consistent with General Plan policy 2-P-15, which requires minimum established residential densities to be met for new projects.
 - b. Development of the proposed subdivision will facilitate the creation of a residential neighborhood at a lower intensity in the southern hills, at the southern edge of the city, thereby contributing to a range of development types/intensities within the city as a whole (General Plan Goal 2-G-4).
 - c. Development of the proposed subdivision will allow for construction large estate sized homes, which will provide moderate and above moderate-income housing , and will contribute to a diversity of housing types within the City (General Plan Goal 2-G-5, Housing Element Goal G-1, Policies P-1.2, P-1.2.B, and P-1.2D).
4. The project site is physically suitable for the type of development proposed, in that the area proposed for development of housing is clustered within an existing valley area, nestled between several significant ridgelines. This type of development will maximize preservation of the surrounding open space areas and minimize impacts to existing viewsheds (as seen from the north looking south).
5. The project site is physically suitable for the proposed density of development, in that:
 - a. The project is located in the hills at the southern edge of the City, where lower development intensities are appropriate due to their increased distance from existing commercial centers and public transit infrastructure and opportunities.
 - b. The specific area proposed for development of housing is clustered within an existing low-laying valley area, nestled between several significant ridgelines which will maximize preservation of the surrounding open spaces and minimize impacts to existing viewsheds (as seen from the north looking south).
 - c. Further, the EIR concluded that with mitigation, the proposed density of the project was appropriate for the site, and more economically feasible than development at a lower intensity, due to the high costs

associated with the required construction of a partially buried water tank and major off-site water and utility improvements needed to serve the site.

6. The design of the proposed subdivision and accompanying improvements will not cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat. Biological impacts associated with the proposed development will be reduced to a less than significant level with the implementation of proposed mitigation measures included in the EIR and conditioned herein.
7. The design of the subdivision and type of improvements proposed will not cause serious public health problems, in that improvements have been designed to meet City standards, and there are sidewalks and a public trail proposed to encourage walking as a healthy means to get into, out of and around the development, which is also an effective means to preserve air quality. Also, the site is not located in close proximity to any stationary source polluters. Implementation of air quality mitigation measures included in the EIR, and conditioned herein, will further help to reduce identified air quality impacts.
8. The design of the subdivision and type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision, in that there are no existing public access easements on the main project site. Access into and within the subdivision will be on public roadways. Access to the new public utilities and infrastructure improvements would be via roadway easements or other mechanisms deemed appropriate by the City Engineer.

Section 4. Approval

Based on the findings and the authority set forth above, this Planning Commission hereby approves Vesting Tentative Subdivision Map Application No. 10-684 (Tract 8279), subject to the conditions below:

General Conditions:

1. The project shall be constructed in substantial conformity with the 'Vesting Tentative Map & Preliminary Grading Plan' date stamped June 19, 2015, the 'Vesting Tentative Map Off-Site Exhibit' date stamped September 28, 2012, and the 'Conceptual Landscape Plan' date stamped September 24, 2010, except as hereinafter may be modified.
2. Approval of this vesting tentative subdivision map is contingent upon two factors:
 - 1) the proposed rezoning taking effect, pursuant to subsequent City Council

approval; and 2) subsequent approval and recordation of the proposed annexation of the site by the Local Agency Formation Commission (LAFCO).

3. The Standards Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval of this project, as determined applicable by the Planning Division. Where there is a conflict between Resolution No. 8931 and the specific conditions identified in this resolution, the specific conditions of this Resolution No. 9985 shall govern.
4. The developer shall comply with all the applicable requirements of the city's Planning, Engineering, and Building Divisions; the Contra Costa Department of Environmental Health; the Contra Costa County Fire Protection District; the Contra Costa County Flood Control & Water Conservation District; the California Regional Water Quality Control Board; and all other applicable local, state and federal agencies. It is the responsibility of the developer to check with each agency for requirements that may pertain to the project.
5. All site development shall comply with Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers), and Title 15 (Buildings and Construction) of the Pittsburg Municipal Code as determined by the City Engineer. Issuance of a site development permit will be required whereby specific engineering requirements will be made as conditions of approval.
6. The developer shall defend, indemnify and hold harmless the City of Pittsburg, its agents, officers, and employees from any claim, action or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, which action is brought within the applicable time period of Government Code section 66499.37. In the event the City becomes aware of any such claim, action or proceeding, the City shall promptly notify the developer and shall cooperate fully in the defense. If the City fails to promptly notify the developer, or if the City fails to cooperate fully in the defense, the developer shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Nothing contained in this condition prohibits the City from participating in the defense of any claim, action, or proceeding, if both of the following occur: (a) the City bears its own attorneys' fees and costs; and (b) the City defends the action in good faith. The developer shall not be required to pay or perform any settlement unless the settlement is approved by the developer.

General Planning Conditions:

7. The developer shall comply with the requirements of the Inclusionary Housing Ordinance (PMC chapter 18.86). The developer shall enter into an affordable housing agreement outlining the implementing and monitoring details of compliance with the basic or alternative requirements of the Inclusionary Housing Ordinance (PMC section 18.86.040 or 18.86.080). For an affordability mechanism other than one of those specified in PMC section 18.86.040 or

18.86.080, the developer shall execute a development agreement outlining the developer's obligations for providing affordable housing. The affordable housing agreement or development agreement, as applicable, shall be subject to City Council approval and must be approved prior to the City Council's consideration of approval of a final map for the development.

8. The developer shall design and install at least one entry sign for the subdivision. The final design of the entry sign shall be subject to review and approval by the Planning Division prior to the issuance of the first building permit. The sign shall be installed in conjunction with site development, but no later than the issuance of the last building permit.
9. This resolution does not approve architectural plans for the houses to be built in this subdivision. Architectural plans for the single family homes shall be subject to subsequent approval of a separate design review application, in accordance with the requirements of PMC chapter 18.36.
10. Depth of required front yards within the subdivision shall be varied from house to house, to the greatest degree possible. A plotting plan for the entire subdivision indicating the proposed degree of front yard depth variation between lots, shall be submitted for review and approval, in conjunction with the required design review application referenced above.
11. House plans subject to subsequent design review (as noted above) shall avoid the visual dominance of garage doors by setting them back behind the front building lines wherever possible and a mix of single story and two-story homes shall be provided.
12. Since the lot layout along the eastern edge of the project site is different than what the landscape plan shows, a revised landscape plan detailing proposed landscaping at the project entrance and surrounding both stormwater detention basins (Parcels C and D) shall be submitted for review and approval in conjunction with the design review application. The revised landscape plan shall also include details for typical front yard landscaping for each lot within the subdivision that includes at least two accent trees and two larger street trees with wide spread canopies (25 foot minimum) to shade as much of the street surface as possible. In addition, the currently proposed street trees, Evergreen Ash and Black Acacia, shall be replaced with different species that are more appropriate for the site, subject to the review and approval of the Planning Division. All landscaping proposed shall comply with the provisions of the water efficient landscape ordinance (PMC chapter 18.84, article VII).
13. At least one passive pedestrian walking trail shall be incorporated into the site design in order to interconnect the development with the open space areas. Location of the walking trail shall be identified on the applicable final map

approved by the City Council, and the trail shall be constructed prior to issuance of the last building permit for the project.

14. The developer shall utilize decorative street lighting within the subdivision. Poles/lights shall be manufactured by "Cyclone" or "Cree" to ensure consistency with other City light standards. The final street lighting standards shall be subject to review and approval by the City's Community Development and Public Works Department prior to the approval of improvements plans for the subdivision.
15. Wood retaining walls shall be prohibited for use between lots within the development.

Engineering Fees and Exactions:

16. The developer shall pay a Major Subdivision Map Processing fee according to the following amounts, as applicable to the project:
 - \$2,300.00 for 5-50 lots, (plus \$800.00 /additional plan checks after third review);
 - \$3,000.00 for 51-150 lots, (plus \$1,065.00/additional plan checks after third review); or
 - \$3,365.00 for 151-250 lots, (plus \$1,330.00/additional plan checks after third review).

This fee shall be paid in full to the Engineering Department prior to the City Council's approval of the Final Map.

17. The developer shall pay one half of the total Improvement Plan Check Fee with the initial submittal of Improvement Plans. The Plan Check Fee is based upon the engineer's estimate, which shall also be provided with the initial plans submittal. The current Improvement Plan Check Fee is 3.5% of the engineer's estimate for the cost of the improvements. This initial payment will be applied towards the total fees due for the project. The remaining balance of the fee shall be due payable prior to the issuance of an Engineering Site Development Permit. If additional engineering studies are deemed necessary by the City Engineer (i.e. geotechnical, structural, hydraulic, etc.), or expedited reviews are requested by the developer, the developer shall pay for all costs related to the extra work. The costs may include the preparation of special studies, additional staff time, and/or reviews of the special studies if studies are prepared by the developer's engineer.
18. The developer shall pay an Improvement Inspection Fee according to the following rates as applicable to the project:

- 6.5% of the engineer's estimate for projects whose total estimated costs for improvements are less than or equal to \$500,000;
 - 4% of the engineer's estimate for projects whose total estimated costs for improvements are between \$500,001 - \$5 million; or
 - 3.6% of the engineer's estimate for projects whose total estimated cost for improvements are more than \$5 million.
19. The developer shall pay one half of the total Grading Plan Check Fee with the initial submittal of Grading Plans. The Grading Plan Check Fee is based upon the engineer's estimate, which shall also be provided with the initial plans submittal. The current Grading Plan Check Fee is 2.5% of the engineer's estimate for the cost of grading, or per the Grading Fee Table approved by City Council. This initial payment will be applied towards the total fees due for the project. The remaining balance of the fee shall be due payable prior to the issuance of a Grading Permit.
 20. The developer shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") for water and sewer service in the amounts in effect when the developer obtains a building permit. The developer understands that the current water FRC is described in the fee schedule approved by Resolution No. 12-11778, effective April 21, 2012, a copy of which is available at the City. The water and sewer FRCs shall be paid prior to the issuance of a building permit.
 21. The developer shall fulfill their financial obligations with regard to the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF"), in accordance with the provisions of the Memorandum of Understanding originally approved on January 19, 1993, amended on December 4, 2000, February 4, 2002, and June 4, 2003. The developer shall pay the LTMF when obtaining a building permit, or provide the City with bonds for LTMF at the rate in place at the time of building permit issuance. The developer understands that the LTMF currently on file is \$7,786 per single-family dwelling unit. The developer further understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development.
 22. The developer shall pay the Pittsburg Regional Transportation Development Impact Mitigation Fee (the "PRTDIM"), to the Engineering Division, when obtaining a building permit. The developer shall fully comply with the Memorandum of Understanding, as amended, dated June 29, 2010, including payment of the fees referenced therein.

23. The developer shall pay the following deposits prior to City Council's approval of the Final Map and Improvement Plans, which are fully refundable at the completion of the project, provided that the developer submits the following items at project completion:
- \$500.00 for Final Map Mylar;
 - \$500.00 for As-Built PDF and AutoCAD, and Vellum copy of grading and improvement plans;
 - A Sanitary Sewer Inspection Deposit of \$1,000.00 for the first 1,000 linear feet, plus \$1.10/linear foot of additional sewer main; and
 - A Storm Drain Inspection Deposit of \$1,000 for the first 1,000 linear feet, plus \$1.10/linear foot of additional storm drain main.
24. The developer shall pay the City \$100 per dwelling unit to update the City's Geographical Information System (GIS).
25. The developer shall pay an NPDES plan review fee for review of stormwater control plans and processing of closeout agreements and/or review of Storm Water Pollution Prevention Plans (SWPPP) in the amount in effect at the time the developer submits the specified plans or agreements. The current fee is:
- \$3,000 for the first 10,000 sq. ft., up to the first acre (projects with Risk Factor 1);
 - Add additional \$136/acre for projects greater than one acre, up to the first five acres (projects with Risk Factors 2 or 3); and
 - Add additional \$31/acre for projects greater than five acres.
26. The developer shall pay an NPDES inspection deposit for City staff's inspection of C.3 compliant facilities constructed, and/or inspection of construction site for compliance with Best Management Practices in accordance with the City's Municipal Regional Stormwater NPDES Permit in the amount in effect at the time the developer applies for a grading permit. The current rate is:
- \$12,000 for the first 10,000 sq. ft. up to the first acre (projects with Risk Factor 1); and
 - \$24,000 for projects greater than one acre (projects with Risk Factor 2 or 3).

This deposit shall remain in place for the duration of the first year of the project. If the project is completed prior to the project's anniversary, the remaining balance of the deposit will be returned to the developer.

Parkland Dedication:

27. The developer shall pay an In-Lieu Parkland Dedication Fee to the City prior to the issuance of a building permit. The In-Lieu Fee amount shall be established in accordance with the municipal code or by a separate agreement to be reviewed and approved by the City Council.

Community Facilities Districts:

28. The developer shall deliver written approval in a manner acceptable to the City Finance Director, that the owner of the parcel is electing to annex the subject property into the 2005-1 Community Facilities District (CFD 2005-1) for Public Safety Services, prior to the recordation of the first Final Map. The fee will provide funding for an increase of police coverage in the area in accordance with City Council Resolution No. 05-10342. The rate of the CFD 2005-1 fee is subject to City Council Ordinance No. 05-1246 .
29. The developer shall deliver written approval in a manner acceptable to the City Finance Director, that the owner of the parcel is electing to annex the subject property into the 2007-01 Park Maintenance Community Facilities District (CFD 2007-1). The rate of the CFD 2007-1 fee is subject to City Council Resolution No. 07-10698.

Engineering Submittals and Requirements:

30. The developer shall submit three (3) copies of the Final Map, with closure calculations to the Engineering Division for review and comment prior to City Council's approval of the final map and any improvement or grading plans.
31. The developer shall submit five (5) sets of engineering plans for review and comment to the Engineering Division. The engineering plans should include but not be limited to the following:
 - Site Plan.
 - Grading and Drainage Plan.
 - Utilities Plan.
 - Landscaping and Irrigation Plan.
 - Joint Trench Plan.
 - Interim Kirker Pass Road/Project Entrance Intersection Plan.
32. The developer shall submit two (2) copies of the Storm Water Pollution Prevention Plan (SWPPP) to the Engineering Division for review and comment

prior to the issuance of a Grading Permit. The SWPPP shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The SWPPP measures shall also include erosion control measures to prevent soil, dirt, and debris from entering the storm drain system. The developer shall provide the project Waste Discharge Identification (WDID) number as evidence of having obtained a construction permit from the Regional Water Quality Control Board. If a WDID number has not yet been issued, a copy of the Notice of Intent that was sent to the Regional Water Quality Control Board shall be submitted with the grading permit application.

33. The developer shall incorporate long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long term BMPs to limit pollutant generation, discharge, and runoff. Such source control design measures may include:
- Incorporating landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices.
 - Use pavers for walkways and other appropriate hardscape surfaces as an option to buyers to minimize impervious areas.
 - Minimizing the amount of directly connected impervious surface area.
 - Mark all storm drains with "No Dumping, Drains to Delta" permanent markings.
 - Constructing concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
34. The developer shall submit a complete Stormwater Control Plan and Report for Montreux that addresses the issues identified by the supplemental review letter from Balance Hydrologics, Inc., dated October 24, 2012, generated from the initial review of the stormwater control plan dated September 20, 2012. The C.3 treatment facilities shall be adequately sized to treat the stormwater runoff from the associated drainage management areas, and supporting calculations and plans shall be submitted to the Engineering Division for review prior to issuance of a grading permit. In the event it is discovered that the runoff cannot be treated on site, the developer shall treat the remaining portion of runoff, or all of the equivalent amount of runoff, at an off-site facility, adequately sized and designed to meet the treatment needs. The offsite facility(ties) shall be constructed with the first phase of the project, as approved by the City Engineer.

35. Grading and/or building permit plans (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants.
36. The developer shall submit the final draft of the Stormwater BMP Operation and Maintenance Plan and Operations and Maintenance Agreement for the project's C.3 facilities to the Engineering Division for review, prior to issuance of the first Building Permit.
37. The developer shall execute the Operations and Maintenance Agreement and Right of Entry, which pertain to the transfer of ownership and / or long-term maintenance of stormwater treatment BMPs or hydrograph modification BMPs prior to the issuance of the first Building Permit. The Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are found on the Contra Costa County Clean Water Program website (www.cccleanwater.org) or the Stormwater C.3 Guidebook.
38. The project shall contain appropriate provisions for maintenance of any private infrastructure such as roadways, open spaces, utilities, retaining walls, landscaping, C.3 facilities and irrigation systems. If CC&R's are utilized to provide for maintenance, the developer shall submit a set of acceptable documents, per the City's review, to the Engineering Division prior to the issuance of the engineering permit.
39. The developer shall provide estimated water use calculations to show compliance with the City's water efficient landscape ordinance.
40. The developer shall evaluate all existing storm, sewer, and water facilities directly impacted by this project to assure adequate capacity and provide the results to the City to identify any service or supply problems. The cost for installation of additional facilities necessary for this project shall be borne by the developer.
41. The developer shall provide a water reservoir sized in accordance with the draft 2015 Water Master Plan. Construction of the water reservoir shall be completed prior to the construction of any homes located within the water Zone 4. The developer shall also create a separate parcel for the water tank site and access road, and dedicate that parcel to the City upon completion.
42. The access road to the water reservoir shall include removable bollards at the street entrance to restrict vehicular access, security fencing at the top of the hill surrounding the tank, and a flat parking pad area near the access gate (at the top of the hill) for maintenance vehicles. Final design of the reservoir access area shall be subject to review and approval by the City.

43. The developer shall provide a water sampling station, the location to be approved by the Director of Water Utilities.
44. The developer shall provide a supply line to the water pump station, to be used solely for supply, and not services.
45. The developer shall provide proper water line size to meet the domestic and fire protection demands for the subdivision.
46. The developer shall provide fire hydrant locations approved by Contra Costa County Fire Prevention District.
47. The developer shall relinquish the abutter's rights for all corner lots.
48. The developer shall create and dedicate utility parcels to the City rather than utility easements between lots.
49. The developer shall provide an alternative sanitary sewer conveyance system for the 40+ lots which are proposed to be served by a pump station. If there is no feasible alternative to a pump station, then the developer must:
 - construct the pump station in accordance to City and Central Sanitation District's standards;
 - establish a funding mechanism for its continued maintenance; and
 - provide a full supervisory control and data acquisition (SCADA) system for the pump station.
50. For all C.3 basin areas, the developer shall provide maintenance access and facility sites as separate parcels from the adjacent sloped areas.

Traffic & Circulation:

51. The developer shall provide ADA accessible driveways for all lots within the subdivision.
52. If the project begins construction prior to the completion of the James Donlon Boulevard Extension, the developer shall submit a \$10,000 deposit to cover the actual cost of adjusting the morning commute metering rate at the Buchanan Road/Meadows Avenue intersection and synchronizing the traffic signals along the Buchanan Road corridor during the evening commute peak period.
53. Construction of the future extension of James Donlon Boulevard will require altering the existing vertical alignment of Kirker Pass Road. If the project begins construction prior to the completion of the James Donlon Extension, the developer shall design interim and ultimate improvements for the entrance

roadway connection and intersection to Kirker Pass Road to minimize the future retrofitting. These interim and ultimate improvements shall be approved by the City Engineer. The Developer shall be responsible for construction of the interim improvements, which shall be temporary up to the "catch/tie-in point", as determined by the City Engineer in writing. The City shall thereafter be responsible for coordinating and removing and replacing such temporary construction at the time the permanent intersection improvements are constructed, at no further cost to Developer.

54. The developer shall provide a bus turn out, equipped with a shelter and appropriate seating per the requirements of Tri Delta Transit, along the west side of Kirker Pass Road, immediately south of the main project entrance, rather than be routed through the development. The final location for the bus turnout shall be subject to review and approval by the City Engineer.
55. The developer shall provide concrete access roads for those streets with grades 15% or greater.

Mitigation Measures

56. The developer shall comply with the following environmental impact mitigation measures identified below. Where there may be a conflict between the mitigation measures in this resolution and the final Mitigation Monitoring and Reporting Program (MMRP) to be adopted by the City Council at subsequent meeting, the specific measures of the final MMRP shall govern.

Aesthetics:

57. Mitigation Measure (MM) AES-1: The architectural elevations and materials used on the exterior of the residences (including roofing materials, exterior finishing, and trim palette) shall include natural, terrain-neutral colors and prohibit the use of brightly colored terra cotta or red clay roof tiles in order to limit potential visual contrast between the proposed development and the adjacent hillsides as determined acceptable by the Planning Commission through the design review process required by Pittsburg Municipal Code (PMC) section 13.50.100. The developer shall include Codes, Covenants, and Restrictions that prohibit or limit roofing color changes by future owners, in accordance with the Planning Commission design review approval.
58. MM AES-2: The developer shall hydro-seed all disturbed, yet undeveloped, slopes, including those surrounding the proposed off-site detention basin and the earthen berm, with native species in order to encourage growth of new vegetation on disturbed hillsides. To ensure that native species dominate re-vegetated areas after initial seeding the developer shall re-seed all disturbed areas and hillsides with native seeds on an annual basis for 5 years after the initial seeding.

59. MM AES-3a: The developer shall use full cutoff street lights to direct light downward. A “full cutoff” luminaire is defined as a luminaire that allows no direct light emissions above a horizontal plane through the luminaire’s lowest light-emitting part.
60. MM AES-3b: The developer shall prepare a photometric plan, which shows the proposed height, location, and intensity of streetlights on-site. The plan shall comply with minimum standards for roadway lighting, and shall be reviewed and approved by the City Planning and Public Works Departments. The City will consider allowing minimum street lighting illumination levels throughout the project site as the proposed subdivision is located on the urban edge in the foreground of the southern hills.
61. MM AES-3c: The developer shall prepare Codes, Covenants & Restrictions (CC&Rs) that control flood lighting and landscape lighting on the slopes and yards of specific lots to avoid light “trespass” or “spill” and excessive illumination levels.
62. MM AES-3d: The developer shall prepare CC&Rs that prohibit continuous all-night exterior lighting throughout the project.

Air Quality:

63. MM AQ-2a: The project shall comply with the following basic construction mitigation measures from Table 8-1 in the BAAQMD 2010 CEQA Air Quality Guidelines:
 - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - Building pads shall be laid immediately after grading unless seeding or soil binders are used.
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage informing workers of

this provision shall be provided for construction workers at all access points.

- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

64. MM AQ-2b: The project shall comply with the following additional construction mitigation measures taken from Table 8-2 in the BAAQMD 2010 CEQA Air Quality Guidelines for projects that exceed construction significance thresholds:

- All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch or gravel.
- Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.

- The idling time of diesel powered construction equipment shall be minimized to no more than 2 minutes.
- The project shall develop a plan to be submitted to the City's Engineering Department, demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOx reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
- Low VOC (i.e., ROG) paint coatings that exceed local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings) shall be used.
- All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- All contractors shall use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines.

Biology:

65. MM BIO-1a: In order to receive coverage under the HCP/NCCP, the project applicant shall pay a Development Fee and a Wetland Mitigation Fee, as described below:
- **Development Fee:** This fee will cover the development of approximately 123 acres of upland habitat that primarily includes annual grassland. Included within this area is approximately 2.8-acre of exposed rock area, an approximately 0.5-acre stand of valley oaks, and approximately 1.3-acre of coastal scrub.
 - **Wetland Mitigation Fee:** This fee shall be paid for the filling of the Waters of the US and any Waters of the State. This fee will cover the filling of 0.003 acres of the Waters of the US, as delineated on the Approved Jurisdictional Determination (see Figure 5.3-4). If any waters on the project site are determined by the RWQCB to be Waters of the State (currently estimated at approximately 0.119 acres), then the project applicant shall also pay this fee as may be required by the HCP/NCCP, for the filling of the Waters of the State.

Payment of the Development Fee would address the loss of potential habitat of special-status plant species (e.g., big tarplant, round-leaved filaree) associated with grasslands, while payment of the Wetland Mitigation Fee would specifically address the loss of up to 0.016 acre of potentially suitable seasonal wetland habitat for adobe navarettia. The fees would be used in part to protect these affected special status plant species by bringing existing populations of the species under protection.

Alternately, the project applicant may, in accordance with the terms of PMC Chapter 15.108, offer to dedicate land or create and restore wetlands in lieu of some or all of the mitigation fees.

All applicable mitigation fees shall be paid, or an "in-lieu-of fee" agreement executed, prior to the issuance of a grading permit for the project.

66. MM BIO-1b: Prior to issuance of a grading permit for the site, additional rare plant surveys shall be conducted for big tarplant, round-leaved filaree, and adobe navarretia. These surveys shall be appropriately timed and shall cover all potentially suitable on-site habitats. If none of the species occurs in the project development area, no further mitigation is required.
67. MM BIO-1c: If any of the above species occurs in the project development area (regardless of whether or not the wetlands are determined to be to be Waters of the State), the project applicant shall notify the HCP/NCCP Implementing Entity of the construction schedule so as to allow the HCP/NCCP Implementing Entity the option to salvage the population(s) in accordance with HCP/NCCP Conservation Measure 3.10 (Plant Salvage when Impacts are Unavoidable) described below.

Additionally, the project applicant shall confirm with the HCP/NCCP Implementing Entity that the take limits of the HCP/NCCP for the three species identified in Impact BIO-1 have not been breached (at the time of writing this EIR, the take limits have not been breached for the special-status plant species in question).

Conservation Measure 3.10 (Plant Salvage when Impacts are Unavoidable)

Perennial Covered Plants

Where impacts on covered plant species cannot be avoided and plants will be removed by approved covered activities, the Implementing Entity has the option of salvaging the covered plants. Salvage methods for perennial species shall be tested for whole individuals, cuttings, and seeds. Salvage measures shall include the evaluation of techniques for transplanting as well as germinating seed in garden or greenhouse and then transplanting to suitable habitat sites in the field. Techniques shall be tested for each species, and appropriate methods shall be identified through research and adaptive management. Where plants are

transplanted or seeds distributed to the field they shall be located in preserves in suitable habitat to establish new populations. Field trials shall be conducted to evaluate the efficacy of different methods and determine the best methods to establish new populations. New populations shall be located such that they constitute separate populations and do not become part of an existing population of the species, as measured by the potential for genetic exchange among individuals through pollen or propagule (e.g., seed, fruit) dispersal. Transplanting within the preserves shall only minimally disturb existing native vegetation and soils. Supplemental watering may be provided as necessary to increase the chances of successful establishment, but must be removed following initial population establishment. See also All Covered Plants below.

Annual Covered Plants

For annual covered plants, mature seeds shall be collected from all individuals for which impacts cannot be avoided (or if the population is large, a representative sample of individuals). If storage is necessary, seed storage studies shall be conducted to determine the best storage techniques for each species. If needed, studies shall be conducted on seed germinated and plants grown to maturity in garden or greenhouse to propagate larger numbers of seed. Seed propagation methods shall ensure that genetic variation is not substantially affected by propagation (i.e., selection for plants best adapted to cultivated conditions). Field studies shall be conducted through the Adaptive Management Program to determine the efficacy and best approach to dispersal of seed into suitable habitat. Where seeds are distributed to the field, they shall be located in preserves in suitable habitat to establish new populations. If seed collection methods fail (e.g., due to excessive seed predation by insects), alternative propagation techniques will be necessary. See also All Covered Plants below.

All Covered Plants

All salvage operations shall be conducted by the HCP/NCCP Implementing Entity. To ensure enough time to plan salvage operations, project proponents shall notify the HCP/NCCP Implementing Entity of their schedule for removing the covered plant population. The HCP/NCCP Implementing Entity may conduct investigations into the efficacy of salvaging seeds from the soil seed bank for both perennial and annual species. The soil seed bank may add to the genetic variability of the population. Covered species may be separated from the soil through garden/greenhouse germination or other appropriate means. Topsoil taken from impact sites shall not be distributed into preserves because of the risk of spreading new nonnative and invasive plants to preserves. For salvage operations, the HCP/NCCP Implementing Entity shall transplant new populations such that they constitute separate populations and do not become part of an existing population of the species, as measured by the potential for genetic exchange among individuals through pollen or propagule (e.g., seed, fruit) dispersal. Transplanting or seeding "receptor" sites (i.e., habitat suitable for establishing a new population) should be carefully selected on the basis of

physical, biological, and logistical considerations (Fiedler and Laven 1996); some examples of these are listed below.

- Historic range of the species
- Soil type
- Soil moisture
- Topographic position, including slope and aspect
- Site hydrology
- Mycorrhizal associates (this may be important for Mount Diablo manzanita)
- Presence or absence of typical associated plant species
- Presence or absence of herbivores or plant competitors. Site accessibility for establishment, monitoring, and protection from trampling by cattle or trail users.

68. MM BIO-2a: The project applicant shall implement the following avoidance measures for potential effects on Swainson's hawk nests during construction:

- Prior to ground disturbing activities during the nesting season (March 15 through September 15), a qualified biologist shall conduct a pre-construction survey no more than one month prior to construction to establish whether occupied Swainson's hawk nests occur on or within 1,000 feet of the area of proposed construction. If no occupied nests are found, then no further mitigation is required.
- If occupied nests are found, there shall be no project construction activity within a 1,000 foot buffer zone distance from the nest unless a lesser buffer zone is approved by the City in consultation with CDFW. During the nesting season, construction activities shall be avoided within the established buffer zone to prevent nest abandonment. Construction monitoring shall be required to ensure that the established buffer zone is adhered to. If young fledge prior to September 15, construction activities can proceed normally without a buffer zone. If an active nest site is present but shielded from view and noise by other development or other features, the City may waive this avoidance measure (establishment of a buffer zone) if approved by the CDFW.

69. MM BIO-2b: The project shall implement the following avoidance measures for potential effects on San Joaquin kit fox during construction:

- Prior to any ground disturbance, a USFWS/CDFW-qualified biologist shall conduct a pre-construction survey within the proposed disturbance footprint and a surrounding 250-foot radius. The survey shall establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (US Fish and Wildlife Service 1999). The pre-construction survey shall be conducted no more than 30 days prior to ground disturbance. On the

parcel where the activity is proposed, the biologist shall survey the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership are not required to be surveyed. The status of all surveyed dens shall be determined and mapped. Written results of pre-construction surveys shall be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to ground disturbance.

- If San Joaquin kit foxes and/or suitable dens are identified in the survey area, the measures described below shall be implemented.
 - i. If a San Joaquin kit fox den is discovered in the proposed development footprint, the den shall be monitored for 3 days by a USFWS/CDFW-qualified biologist using a tracking medium or an infrared beam camera to determine if the den is currently being used.
 - ii. Unoccupied dens shall be destroyed immediately to prevent subsequent use.
 - iii. If a natal or pupping den is found, USFWS and CDFW shall be notified immediately. The den shall not be destroyed until the pups and adults have vacated and then only after further consultation with USFWS and CDFW.
 - iv. If kit fox activity is observed at the den during the initial 3-day monitoring period, the den shall be monitored for an additional 5 consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den can be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is still present after 5 or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of the biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities).
- If dens are identified in the survey area outside the proposed disturbance footprint, exclusion zones around each den entrance or cluster of entrances shall be demarcated. The configuration of exclusion zones should be circular, with a radius measured outward from the den entrance(s). No ground disturbance activities shall occur within the exclusion zones. Exclusion zone radii for potential dens shall be at least 50 feet and shall be demarcated with four to five flagged stakes. Exclusion zone radii for known dens shall be at least 100 feet and shall be

demarcated with staking and flagging that encircles each den or cluster of dens but does not prevent access to the den by kit fox.

70. MM BIO-2c: The project shall implement the following avoidance measures for effects on vernal pool invertebrates:

- Prior to any ground disturbance, a USFWS-qualified biologist shall conduct a pre-construction survey within the seasonal wetland (SW-1), as it is an area identified as having suitable shrimp habitat. The survey shall be conducted in accordance with the survey protocol for covered shrimp described in the HCP/NCCP. Alternatively, the habitat may be assumed to be occupied by covered shrimp species. If covered shrimp are found to be absent during the survey, no further mitigation is required related to the covered shrimp.
- If covered shrimp are present (or assumed to be present), filling of the seasonal wetland shall be delayed until pools are dry and samples from the top 4 inches of wetlands soils are collected. Soil collection shall be sufficient to include a representative sample of plant and animal life present in the wetland by incorporating seeds, cysts, eggs, spores, and similar inocula. These samples shall be provided to the Implementing Entity so that the soil can be translocated to suitable habitat within the inventory area unoccupied by covered shrimp or used to inoculate newly created seasonal wetlands on preserve lands.
- In addition, according to HCP/NCCP Conservation Measure 3.8, if the habitat is occupied by covered shrimp (or presence is assumed), the applicant shall determine if the HCP/NCCP Implementing Entity has (1) preserved elsewhere, two acres of occupied habitat (for the same shrimp species) for every acre impacted by the project, and (2) restored elsewhere, one acre of suitable habitat (for the same shrimp species) for every acre impacted, and the restored habitat is occupied. If these tasks have occurred, then no further compensation in addition to the Wetland Mitigation Fee would be required. If the Implementing Entity has not accomplished these tasks, then the project applicant shall further compensate for impacts to seasonal wetland (SW-1) by implementing both of the following actions for every acre of impact:
 - i. Preserve two acres of occupied habitat within the Preserve System or purchase an equivalent amount of vernal pool preservation credits in a USFWS-approved mitigation bank for each acre affected.
 - ii. Restore one acre of suitable habitat within the Preserve System or purchase an equivalent amount of vernal pool restoration credit in a USFWS-approved mitigation bank for each acre affected.

As stated above, either component may be achieved by participating in a USFWS-approved mitigation bank. If habitat is restored within the HCP/NCCP Preserve System, the vernal pool acreage can be credited to the requirement for seasonal wetland creation in HCP/NCCP Conservation Measure 2.2 (and vernal pool restoration, if applicable). Similarly, if vernal pool credits are purchased within an approved mitigation bank that is also within areas designated as high- or medium-priority for conservation by the HCP/NCCP, then these credits can also offset any wetland mitigation fee for seasonal wetlands required by HCP/NCCP.

71. MM BIO-2d: The project shall implement the following avoidance measures for potential effects on burrowing owl during construction:
- Prior to any ground disturbance, a USFWS/CDFW qualified biologist shall conduct a pre-construction survey of the project site for burrowing owls. The pre-construction survey shall establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game 1993). On the parcel where the activity is proposed, the biologist shall survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership shall not be required to be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls shall be identified and mapped. Surveys shall take place no more than 30 days prior to construction. During the breeding season (February 1–August 31), surveys shall document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys shall document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results shall be valid only for the season (breeding or nonbreeding) during which the survey is conducted.
 - If burrowing owls are found during the breeding season (February 1–August 31), the project applicant shall avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance shall include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1–January 31), the project applicant shall avoid the owls and the burrows they are using, if

possible. Avoidance shall include the establishment of a buffer zone (described below).

- If occupied burrows for burrowing owls are not avoided, passive relocation shall be implemented. Owls shall be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors shall be in place for 48 hours prior to excavation. The project area shall be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows shall be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure shall be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

72. MM BIO-2e: If construction begins and then is delayed for more than a year, as an interim measure, the project applicant shall periodically disk the graded areas of the project site to avoid recolonization by burrowing owls. Upon recommencement of project construction, the project applicant shall re-implement Mitigation Measure MM BIO-2d prior to recommencement of any ground disturbing activities.

73. MM BIO-2f: The project shall implement the following avoidance measures for potential effects on golden eagles during construction:

- Based on the potential for active nests, prior to implementation of construction activities, including tree removal, a qualified biologist shall conduct a pre-construction survey to establish whether an active golden eagle nest is present on the project site. If an occupied nest is present, minimization requirements and construction monitoring shall be required, as detailed below.
- Construction activities shall be prohibited within 0.5 mile of active nests. Nests can be built and active at almost any time of the year, although mating and egg incubation occurs late January through August, with peak activity in March through July. If site-specific conditions or the nature of the construction activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented, the HCP/NCP Implementing Entity shall coordinate with CDFW/USFWS to determine the appropriate buffer size.
- Construction monitoring shall ensure that no construction activities occur within the buffer zone established around an active nest. Construction monitoring shall ensure that direct effects to golden eagles are avoided.

74. MM BIO-2g: A pre-construction survey for potential den sites shall be conducted by a qualified biologist no more than four weeks before commencement of initial ground disturbance activities. If an occupied den is found (and if young are not present), then any badgers present shall be removed from the den either by trapping or the use of exclusionary devices. Prior to implementation, the removal method shall be approved by CDFW. If trapped, the badgers shall be moved to other suitable habitat. Once any badgers are trapped or excluded, the dens shall be excavated by hand and refilled to prevent reoccupation. Exclusion shall continue until the badgers are successfully excluded from the site, as determined by a qualified biologist.
75. MM BIO-2h: A qualified biologist shall conduct a roosting bat habitat evaluation prior to the removal of trees or the rock outcrops containing small fissures and crevices. The evaluation shall determine if any of these features provide potential bat roosting habitat. If it is determined that potential roosting habitat is not present, no further action shall be required. If suitable roost features are identified, then a site-specific bat protection plan shall be developed and implemented by a qualified biologist to prevent disturbance of an active maternity or hibernation roost during construction and tree removal. The plan may include the use of passive bat exclusion devices, adjusting project timing to when the roost is not active, or other protective measures. Any passive exclusion shall occur only within the following two acceptable seasonal time windows for humane exclusion:
- Between about March 1, when bats become active again after heavy winter rains and when evening temperatures are above 45F, and April 15, when females start giving birth to pups.
 - Between August 31 and about October 15, or before heavy winter rains and when evening temperatures are above 45F. After that time, torpid bats are unable to fly out through the one-way exits.
76. MM BIO-2i: If construction activities commence anytime during the nesting/breeding season of native bird species potentially nesting on or near the project site (typically February through August in the project region), a pre-construction survey for nesting birds shall be conducted by a qualified biologist two weeks prior to the commencement of construction activities.

If active nests are found in areas that could be directly affected or are within 300 feet of construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones and types of construction activities restricted within them shall be a minimum of 50 feet, and may be enlarged by taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity;
 - Distance and amount of vegetation or other screening between the construction site and the nest; and
 - Sensitivity of individual nesting species and behaviors of the nesting birds.
77. MM BIO-7a: All street and entrance lighting shall be directed and shielded so as to minimize light spillage into off-site areas.
78. MM BIO-7b: As part of the CC&Rs applicable to the housing development, future occupants of the two lots within approximately 160 feet of the off-site pond shall be informed through deed disclosures that any outdoor lighting to be installed shall not be allowed to result in light spillage over the fence line (in the direction of the off-site pond).
79. MM BIO-7c: Prior to the issuance of a grading permit, the project applicant shall prepare a list of recommended and prohibited landscaping plants for homes and common areas in the project, which list shall be subject to review and approval by the City of Pittsburg. The list shall include a plant palette composed of non-invasive species and shall list invasive plant species that residents may not plant on the project site. The list of prohibited plants shall be compiled in cooperation with a qualified restoration specialist and distributed to future occupants of the project site as part of the CC&Rs applicable to the housing development.
80. MM BIO-7d: In deed disclosures the project applicant shall notify all property owners/buyers of the potential interactions that may occur between pets and native wildlife. The disclosures shall discuss the presence of native animals (e.g., coyote, bobcat, mountain lion) that could prey on pets, and state that the property owners and/or residents shall not take any actions against native animals should they prey on pets that are allowed outdoors (unless there is danger of attacks on humans).

Cultural Resources:

81. MM CUL-1: As a condition of approval for the proposed project, further historical archival research shall be undertaken to aid in the location of possible historical archaeological deposits, such as dump sites, wells, privy pits and any other architectural features associated with the former building complex. Based upon this research, a program of mechanical subsurface presence/absence testing shall be undertaken in those areas which will be affected by project grading and/or trenching activities. In the event that any archaeological deposits are discovered which may be eligible for inclusion on the California Register of Historic Resources (CRHR), a plan for the mitigation of impacts to the resources

shall be submitted to the Pittsburg Planning Department for approval before construction related earthmoving is allowed inside the areas designated as archaeologically sensitive zones. Mitigation can take the form of additional data retrieval through hand excavation combined with archaeological monitoring of all additional earthmoving inside the zones of archaeological sensitivity.

Prior to the issuance of a grading permit, the developer shall retain a professional cultural resources consultant to monitor grading and/or trenching activities in the area of the demolished ranch complex (as referenced in the July, 2000 Holman & Associates study) to identify any possible historic deposits which may have been buried there during the demolition of the ranch. In the event that any archeological deposits are identified, work shall be stopped within 50 feet of any discovery until it has been evaluated for potential significance as defined by the *State CEQA guidelines*. If evaluative testing concludes that the archeological deposits are significant, a plan for mitigation of impacts shall be submitted to the City of Pittsburg for approval before any further earthmoving activities recommence in the area of discovery.

82. MM CUL-2: In the event that unknown cultural resources are discovered during construction, all soil disturbing work within 100 feet of the find shall cease. The City shall contact a qualified archaeologist to provide direction for handling of the find, and shall implement a plan for survey and subsurface investigation as needed at the direction of the archaeologist to define the deposit and to assess the remainder of the site within the project area to determine whether the resource is significant and would be affected by the project. A written report of the results of investigations shall be prepared by a qualified archaeologist and filed with the appropriate Information Center of the California Historical Resources Information System.
83. MM CUL-3: In the event of a discovery on-site of human bone, suspected human bone, or a burial, all excavation in the vicinity shall halt immediately and the area of the find shall be protected until a qualified archaeologist determines whether the bone is human. If the qualified archaeologist determines the bone is human, or if a qualified archaeologist is not present, the City shall notify the County Coroner of the find before additional disturbance occurs. Consistent with California Health and Safety Code Section 7050.5(b), which prohibits disturbance of human remains uncovered by excavation until the Coroner has made a finding relative to PRC 5097 procedures, the City shall ensure that the remains and vicinity of the find are protected against further disturbance.

If it is determined that the find is of Native American origin, the City shall comply with the provisions of PRC Section 5097.98 regarding identification and involvement of the Native American Most Likely Descendant (MLD).

If human remains cannot be left in place, the City shall ensure that the qualified archaeologist and the MLD are provided opportunity to confer on archaeological

treatment of human remains, and that appropriate studies, as identified through this consultation, are carried out prior to reinterment. The City shall provide results of all such studies to the local Native American community, and shall provide an opportunity of local Native American involvement in any interpretative reporting. As stipulated by the provisions of the California Native American Graves Protection and Repatriation Act, the City shall ensure that human remains and associated artifacts recovered from projects within City boundaries are repatriated to the appropriate local tribal group if requested.

Geology & Soils:

84. MM GEO-1: Once the construction documents are developed, the developer shall prepare a design-level geotechnical report to provide site-specific geotechnical recommendations for the main project site and off-site detention basin. For the main project site, the design-level geotechnical report shall include the following:

- Detailed site-specific grading plans and recommendations to reduce the risk of landslides, including partial landslide debris removal and buttressing with engineered fill or complete landslide debris removal and replacement of engineered fill. These measures shall be prepared during review of the final 40-scale grading plans.
- Recommendations with respect to excavatability of bedrock, and appropriate treatment of oversized-rock fragments;
- Site-specific recommendations for moisture conditioning and compaction of fills to reduce potential fill settlements;
- Site-specific recommendations for the construction of stable cut and fill slopes; and
- Site-specific recommendations for slope stabilization where appropriate.

For the off-site basin, the design-level geotechnical report shall include:

- a) Specific design recommendation for remedial grading including, the removal and replacement of landslide debris, keyways, and sub-drains. These measures shall be prepared during review of the final 40-scale grading plans;
- b) Site-specific geotechnical recommendations for site preparation grading and compaction of engineered fills; and
- c) Corrective grading plans depicting the location and dimensions of required slope buttresses keyways and sub-drains.

All of the recommendations of the design-level geotechnical report shall be implemented in conjunction with the preparation of the project site and construction of the residences and the off-site detention basin.

85. MM GEO-3: All deleterious material shall be segregated from existing fill prior to use as engineered fill. The developer shall obtain approval from City Engineer prior to reusing any existing fill on the project site as engineered fill.
86. MM GEO-4: Non-expansive granular soil fill shall be placed under structures at depths ranging from at least 1 to 2 feet, for building pads and the immediate perimeter areas, and beneath flatwork and paved areas. Final locations, depths, and dimensions of the non-expansive fill placement shall be determined in accordance with the recommendations in the design-level geotechnical report, as reviewed and approved by the City Engineer. Non-expansive soils shall also be kept moist by watering for several days before placement of concrete in order to avoid having to remoisturize clayey soils (which would involve excavation, moisture conditions, and recompaction).

Hazards and Hazardous Materials:

87. MM HAZ-1: Prior to the issuance of a grading permit, soil and groundwater sampling shall be conducted in the area of historic development at the former ranch complex in the southeastern portion of the site in order to verify that any soil contamination concentrations are below residential action levels. In the event that soil contamination concentrations exceed the Department of Toxic Substances Control (DTSC) action levels for residential uses, the developer shall work with the DTSC to prepare a risk assessment and implement any DTSC required remedial actions, continuing until the DTSC verifies that concentrations meet the remediation standard established for the site and a No Further Action letter (or equivalent approval) is issued by the DTSC.
88. MM HAZ-2: Developer shall provide suitable disclosures in writing to all prospective homebuyers to notify them of the presence of both the natural gas pipeline and the petroleum product pipeline. Such notices shall include information on the pipeline locations and materials transported; safety guidance, including the importance of observing pipeline location notices and restrictions on subsurface work or other activities within the pipeline easement; and information on the City's emergency response plan and procedures. A requirement for provision of such notices to future buyers shall be included in the Covenants, Conditions, and Restrictions for the proposed development.
89. MM HAZ-3.1: The developer shall disclose in writing to all prospective homebuyers on perimeter lots the Natural Hazards Disclosure Statement (NHDS) for wildland fire. The developer shall also provide public education information, including the requirements of Public Resources Code 4291 and Contra Costa

County Fire Protection District Defensible Space Standards, reduced fuel zones, and weed abatement requirements.

90. MM HAZ-3.2: In accordance with Public Resources Code Section 4291, all residential units adjacent to open slopes shall be required to maintain a 100-foot defensible-space setback to the residential structure with fire resistant landscaping for areas adjacent to open slopes. If this setback area extends beyond the individual property lines, yet within the project boundaries, then maintenance of the fire setback areas shall become the responsibility of the applicable property owner associated with the area in question or the Geologic Hazard Abatement District (GHAD).
91. MM HAZ-3.3: Prior to approval of the Vesting Tentative Map, the City shall ensure that the developer has provided access to open space areas or to the existing fire trails systems (Fire Trail 85-2) equivalent to the existing access and adequate to allow emergency access to all open space on the project site and to any adjacent open space that is currently accessed primarily from the project site. These access roadways shall be a minimum of 16 feet in width in order to accommodate Fire Protection District equipment and personnel. The proposed access plan shall be reviewed and approved by the Fire Protection District prior to approval of the first Final Map.

Land Use and Planning:

92. MM LUP-1: The developer shall ensure the southern portion of the project site, currently designated as Open Space (approximately 43.4 acres), is permanently preserved as a greenbelt buffer, in accordance with Policy 2-P-73, through the recordation of a deed restriction or some other appropriate mechanism, prior to the acceptance of the last Final Map for the site (should it be broken into phases).

Noise:

93. MM NOI-1: A 6-foot noise barrier shall be installed along the rear and side property lines of Lots 1, 2, 207 and 208. Design of the noise barrier shall coordinate with adjacent fencing and shall be subject to review and approval by the Planning Division at the time the design review application is filed for the residential units.
94. MM NOI-2: The project developer shall prepare construction specifications that will become part of contractor documents and which could be enforced by the City of Pittsburg Building Division on an as needed basis. The construction specifications will require the contractor to:

- Limit construction activities to the hours between 7:00 AM and 5:30 PM on weekdays and between 9:00 AM and 6:00 PM on Saturdays and Sundays. No construction shall take place on locally observed holidays.
- Locate fixed construction equipment such as compressors and generators as far as feasibly possible from sensitive receptors (i.e., existing houses). Shroud or shield all impact tools, and muffle or shield all intake and exhaust ports on power construction equipment.

Public Services:

95. MM PS-1a: The developer shall pay a Fire Facility Impact Fee in the sum of \$591.00 per single-family unit.
96. MM PS-1b: The developer shall complete and submit for approval to the Contra Costa County Fire Protection District a fire protection plan for the proposed project, prior to approval of the first final map. The fire protection plan shall include details for a fuel modification zone around the subdivision and detail for the organization that will be responsible for ongoing maintenance of the fuel modification zone.
97. MM PS-1c: All homes shall have not less than a Class "A" fire-rated roof assembly.
98. MM PS-1d: Only fire resistant exterior building materials shall be used.
99. MM PS-1e: In deed disclosures, the developer shall notify all property owners/buyers that the site is currently outside the 1.5-mile fire department response radius specified by the General Plan.
100. MM PS-1f: The developer shall provide a minimum fire flow on site of 1500 gallons per minute (GPM). Required flow must be delivered from not more than one hydrant flowing for a duration of 120 minutes, while maintaining 20-pounds residual pressure in the main.
101. MM PS-1g: Flammable or combustible liquid storage tanks used for fueling grading equipment shall not be located on the site without first obtaining necessary approvals and permits from the Fire District.

Transportation and Traffic:

102. MM TRA-1: The developer shall construct a sidewalk along the west side of Kirker Pass Road, or some other alternative pedestrian access route, connecting the project site to the nearest existing sidewalk to the north to the satisfaction of the City Engineer. The sidewalk or alternative pedestrian route shall be constructed prior to occupancy of the first units constructed on the project site.

Utilities and Service Systems:

103. MM UTL-1: The developer shall provide all necessary documentation required by the CCWD for its application for inclusion of the project site in the CVP. No grading or building permits for the project site shall be issued until the project site has been annexed into the CCWD service area and the developer provides the City with a "Will Serve" letter from the CCWD verifying that the project site has been included in the CVP.

Map Expiration:

104. The conditional approval of the vesting tentative map expires 36 months after the date of approval of this resolution, in accordance with PMC section 17.20.070(a). The expiration of the map terminates all proceedings and no final or parcel map may be filed without first processing a new tentative map. An extension of approval may be granted by the Planning Commission upon application to the Planning Division before the map expiration date.

Section 5. The Conditions Imposed Substantially Advance a Legitimate Governmental Interest and are Roughly Proportional to the Burdens Created by the Subdivision.

- A. In the case of Dolan vs. City of Tigard (1994) 114 SCt 2309, the United States Supreme Court expanded on the findings a local agency must make when it imposes a condition on development which constitutes a taking of a possessory interest in real property. To withstand constitutional challenge, Dolan requires the agency show that the condition substantially advances a legitimate governmental interest and does not deny an owner economically viable use of his property. Additionally, the agency must demonstrate that the benefits from the condition are roughly proportional to the burdens created by the project.
- B. Fees, Exactions and Off-Site Improvements. The City has a legitimate governmental interest in ensuring that the City, school districts including the Pittsburg Unified School District (PUSD), utility districts including Delta Diablo and Contra Costa Water District (CCWD), and emergency services providers including the Contra Costa County Fire Protection District (CCCFPD) receive adequate funding to ensure that their facilities and services may be expanded, improved or upgraded in accordance with demands created by new development. General Plan policies have been designed to require developers to pay their fair share costs to fund the increase in demand for services or facilities that their projects create, in order to ensure that development "pays its own way" and does not divert, to a specific project-related improvement, general revenue funds that would otherwise benefit residents citywide.

Section 6. The Improvements are Reasonably Necessary to Meet the Needs of the Public Arising as a Result of the Subdivision

An improvement imposed as a condition of approval of a tentative map is valid to the extent that it is not excessive. An improvement is not considered excessive if it is reasonably necessary to meet public needs arising as a result of the subdivision. (Government Code section 66465.4 (a), (b).) As an additional finding, the Planning Commission hereby finds that the improvements and requirements described in section 4, above, are reasonably necessary to meet the needs of the public arising as a result of this Montreux Residential Subdivision Development Application, as further described in sections 3, 4, and 5.

Section 7. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Banales, seconded by Commissioner Gargalikis, the foregoing resolution was passed and adopted the 22nd day of September, 2015, by the Planning Commission of the City of Pittsburg, California by the following vote:

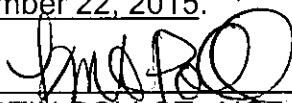
AYES: Banales, Belleci-Shipe, Coniglio, Fardella, Fogleman, Garcia, Gargalikis

NAYES: None

ABSTAIN: None

ABSENT: None

I hereby certify that the above Resolution No. 10012 was adopted by the Planning Commission of the City of Pittsburg on September 22, 2015.



KRISTIN POLLOT, AICP, SECRETARY
PITTSBURG PLANNING COMMISSION