

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
1385 EIGHTH STREET • SUITE 130
ARCATA, CA 95521
VOICE (707) 826-8950
FACSIMILE (707) 826-8960



October 6, 2016

City of Arcata
Attn: Julie Neander
736 F Street
Arcata, CA 95521

RE: **Notice of Intent to Issue Coastal Development Permit 1-16-0122** for the construction of approximately three miles of Class 1 multi-use trail and associated facilities along the City of Arcata's waterfront from Samoa Boulevard (northern terminus) to just north of Brainard's Slough (southern terminus).

Dear Julie:

After a public hearing held on October 5, 2016, in Ukiah, the California Coastal Commission unanimously approved the above-referenced coastal development permit (CDP). The staff report for the Commission hearing is accessible here: <https://documents.coastal.ca.gov/reports/2016/10/w14a-10-2016.pdf>.

Before the City can actually commence the development activity authorized by this CDP, the Executive Director of the Commission must “issue” the permit. As a first step in the process of issuing the CDP, enclosed please find two copies of a document entitled “Notice of Intent to Issue Permit” (NOI), which lists, among other things, the text of all of the conditions subject to which the Commission granted its approval of the CDP. Please sign both documents and forward the original to this office at the above address to acknowledge receipt of the document and understanding of its contents, including all conditions imposed. The City should retain the copy for its records.

CDP 1-16-0122 includes 25 special conditions, twelve of which (Special Conditions 1, 2, 3, 6, 7, 9, 10, 11, 12, 14, 24, and 25) require information to be submitted prior to issuance of the permit. After these twelve special conditions have been satisfied, we will then issue the permit. Your prompt submittal of the required information will expedite this process. Below is a summary of what information is needed to fulfill all condition compliance required prior to issuance of the permit (please see the attached NOI for the specific language of the special conditions):

Special Condition 1 Please submit a permit issued by the Humboldt Bay Harbor, Recreation, and Conservation District, a letter of permission, or evidence that no permit or permission is required.

Special Condition 2 Please submit a copy of a final permit, license, review-approval, or other authorization issued by CPUC for all new trail crossings

of the NCRA rail corridor.

Special Condition 3

Please submit a permit issued by the Regional Board, a letter of permission, or evidence that no permit or permission is required.

Special Condition 6

Special Condition 6 requires that the Northwestern Pacific Railroad Company or NCRA; Slack and Winzler Properties, LLC; and Caltrans formally agree in writing that the applicant may undertake development on their respective properties pursuant to Coastal Development Permit 1-16-0122 and as conditioned by the Commission. Please submit these requisite written agreements.

Special Condition 7

Please submit a Grant of Easement that has been executed and recorded over the portion of the Humboldt Bay Trail North owned by Slack and Winzler Properties, LLC (APN 021-191-002) that permanently authorizes use of the Trail by the public as approved by Coastal Development Permit 1-16-0122 with conditions.

Special Condition 9

Please submit a revised final wetland mitigation and monitoring plan for the proposed Spartina eradication activities on 9.4 acres of the South I Street Parcel (APN 506-011-004) in compliance with the provisions of Special Condition 9.

Special Conditions 10, 11, 24, and 25

These four special conditions require the applicant to enter into a written agreement with the Commission, in a form and content acceptable to the Executive Director, expressly acknowledging and agreeing to implementation of the terms and conditions of the conditions. Special Conditions 10 and 11 also require the applicant to cause Caltrans, as landowner of APN 506-291-014, to submit written agreements. Please submit these requisite written agreements for Special Conditions 10, 11, 24, & 25.

Special Condition 12

Please submit a final riparian habitat mitigation and monitoring plan in compliance with the provisions of Special Condition 12.

Special Condition 14

Please submit a final special-status plant mitigation and monitoring plan in compliance with the provisions of Special Condition 14.

Thank you for your cooperation and patience throughout the Commission's review of this project. If you have any questions, please don't hesitate to call me.

Sincerely,


Cristin Kenyon
Coastal Planner

CALIFORNIA COASTAL COMMISSION

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October 6, 2016

Permit Application No.: 1-16-0122

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On October 5, 2016, the California Coastal Commission approved Coastal Development Permit No. **1-16-0122** requested by **Julie Neander, City Of Arcata** subject to the attached conditions, for development consisting of: **Constructing approximately three miles of Class 1 multi-use trail as part of the California Coastal Trail including five bridges, one viewing platform, one trailhead, and interpretive signs; and mitigating for wetland fill impacts** more specifically described in the application filed in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone at **Arcata and area (Humboldt County) (APN(s): 021-191-002; 021-191-003; 503-251-011; 503-251-008; 503-251-002; 503-251-003; 503-251-012; 503-241-005; 503-241-001; 503-241-012; 503-241-011; 503-251-009; 503-241-010; 503-241-013; 503-241-014; 503-211-004; 501-043-001; 501-043-002; 501-043-004; 501-043-005; 501-061-001; 501-061-002; 501-061-015; 501-091-006; 503-232-013; 506-011-004; & 506-291-014)**

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 1-16-0122, please contact the Coastal Program Analyst identified below.

Sincerely,

John Ainsworth
Acting Executive Director

Cristin Kenyon
Cristin Kenyon
Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

Date

Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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, then 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.

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4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission and affidavit accepting all terms and conditions of the permit.
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.

SPECIAL CONDITIONS:

1. **Humboldt Bay Harbor, Recreation, and Conservation District Approval.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall provide to the Executive Director a copy of a permit issued by the Humboldt Bay Harbor, Recreation, and Conservation District, a letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the District. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required
2. **California Public Utilities Commission (CPUC) Approval.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall provide to the Executive Director a copy of a final permit, license, review-approval, or other authorization issued by the CPUC for all new trail crossings of the North Coast Railroad Authority rail corridor, or evidence that no permit or grant of authority is required. The applicant shall inform the Executive Director of any changes to the project required by the CPUC. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
3. **North Coast Regional Water Quality Control Board Approval.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall provide to the Executive Director a copy of a permit issued by the Regional Board, a letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the Regional Board. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
4. **U.S. Army Corps of Engineers Approval.** PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION, the permittee shall provide to the Executive Director a copy of a permit issued by the Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The permittee shall inform the Executive Director of any changes to the project required by the Army Corps of Engineers. Such changes shall not be incorporated into

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(Upon satisfaction of special conditions)

the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

5. Approval for Mitigation Work at the Lanphere Parcel under Section 7 of the Federal Endangered Species Act

- A. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF WETLAND CREATION MITIGATION ON THE LANPHERE PARCEL (APN 506-291-014), the permittee shall provide to the Executive Director a copy of a letter of concurrence or biological opinion issued by the National Marine Fisheries Service, or evidence that no letter of concurrence or biological opinion is required. The permittee shall inform the Executive Director of any changes to the project required by the National Marine Fisheries Service. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
- B. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF WETLAND CREATION MITIGATION ON THE LANPHERE PARCEL (APN 506-291-014), the permittee shall provide to the Executive Director a copy of a letter of concurrence or biological opinion issued by the United States Fish and Wildlife Service (USFWS), or evidence that no letter of concurrence or biological opinion is required. The permittee shall inform the Executive Director of any changes to the project required by USFWS. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. Evidence of Legal Ability of Applicant to Undertake Development on Property Owned by Others and Comply with Conditions of Approval

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall submit, for the review and approval of the Executive Director, evidence that clearly demonstrates that the North Coast Railroad Authority or the Northwestern Pacific Railroad Company is the legal owner of APNs 501-091-006, 503-251-008, 503-241-014, 503-211-004, 501-043-001, 501-043-002, 501-043-004, 501-043-005, 501-061-015, and 021-191-003, and as such has formally agreed in writing that the applicant may undertake development on each of their respective properties pursuant to Coastal Development Permit 1-16-0122 and as conditioned by the Commission herein.
- B. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall submit, for the review and approval of the Executive Director, evidence that clearly demonstrates that Slack and Winzler Properties, LLC is the legal owner of APNs 021-191-002 and 503-251-011, and as such has formally agreed in writing that the applicant may undertake development on its property pursuant to Coastal Development Permit 1-16-0122 and as conditioned by the Commission herein.
- C. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall submit, for the review and approval of the Executive Director, evidence that clearly demonstrates that the California Department of Transportation (Caltrans) is the legal owner of APN 506-291-014 and has formally agreed in writing that the

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applicant may undertake development on its property pursuant to Coastal Development Permit 1-16-0122 and as conditioned by the Commission herein.

7. **Scope of Use for Trail and Easement.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the permittee shall submit, for the review and approval of the Executive Director, a Grant of Easement that has been executed and recorded over the portion of the Humboldt Bay Trail North owned by Slack and Winzler Properties, LLC (APN 021-191-002). The recorded Grant of Easement to the City of Arcata shall permanently authorize use of the Trail by the public as approved by Coastal Development Permit 1-16-0122 with conditions, including Special Condition 24.

8. **Palustrine Wetland Creation Mitigation**

- A. The permittee shall carry out its proposed mitigation and monitoring on the Lanphere Parcel (APN 506-291-014) to create 2.26 acres of seasonal palustrine wetlands out of uplands both in conformance with the conditions of this permit and the plan entitled "City of Arcata Wetland Mitigation and Monitoring Plan for Humboldt Bay Trail North" and dated July 22, 2016 (Exhibit 9). Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- B. The permittee shall complete construction of mitigation work (i.e., creation of 2.26 acres of seasonal palustrine wetlands) on the Lanphere Parcel within four (4) years of permit approval (by October 5, 2020). If mitigation work is not completed within four (4) years of permit approval, the permittee shall submit a revised or supplemental mitigation program to compensate for the additional temporal loss of habitat associated with the delay in implementing the wetland mitigation plan. The revised mitigation program shall be processed as an amendment to this coastal development permit.

9. **Tidal Salt Marsh Enhancement Mitigation (*Spartina densiflora* Eradication)**

- A. The permittee shall carry out proposed *Spartina densiflora* (Spartina) eradication activities on 9.4 acres of the South I Street Parcel (APN 506-011-004) in compliance with the special conditions of Coastal Development Permit 1-14-0249, including Special Condition 4 (See Exhibit 7 for a list of the special conditions).
- B. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall submit, for the review and written approval of the Executive Director, a revised final wetland mitigation and monitoring plan for the proposed Spartina eradication activities on 9.4 acres of the South I Street Parcel (APN 506-011-004) for tidal salt marsh enhancement mitigation that conforms to the plan entitled "City of Arcata Wetland Mitigation and Monitoring Plan for Humboldt Bay Trail North" and dated July 22, 2016 (Exhibit 9), except the revised final plan shall include:
 - i. All of the components of a Site-Specific Spartina Removal Plan required by Special Condition 4 of Coastal Development Permit 1-14-0249.
 - ii. The following performance standards:

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- a. Greater than 50% cover of native salt marsh plant species within the 9.4-acre mitigation project area within five years of implementation of primary treatment.
- b. Less than 5% cover by Spartina within the 9.4-acre mitigation project area within five years of implementation of primary treatment.
- C. The permittee shall undertake the proposed tidal salt marsh enhancement mitigation on the South I Street Parcel in compliance with the special conditions of Coastal Development Permit 1-14-0249 and in accordance with the approved final wetland mitigation and monitoring plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. Open Space Restriction on Mitigation Properties

- A. Mitigation Property Owned by the City
 - i. No development, as defined in Section 30106 of the Coastal Act, shall occur within the 9.4-acre wetland enhancement area on APN 506-011-004 which is bordered by open waters of Humboldt Bay to the south, a tidal channel to the west, a tidal channel and trail berm to the north, and South I Street to the east as generally depicted on Exhibit 8, pg. 3 except for:
 - a. The authorized development that is approved by this permit as specifically identified in Finding IV-A, "Project Description;" and
 - b. The following development, if approved by the California Coastal Commission as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required: (a) vegetation clearance if required by the California Department of Forestry and Fire Protection to meet fire safety standards; (b) maintenance of existing utilities and community services infrastructure; (c) improvements for public access purposes; (d) further habitat restoration and enhancement activities; and (e) soil stabilization measures.
 - ii. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, expressly acknowledging and agreeing that the 9.4-acre wetland enhancement area on APN 506-011-004, as generally depicted on Exhibit 8, pg. 3, is subject to the restrictions on development set forth in this condition.
- B. Mitigation Property Owned by Caltrans
 - i. No development, as defined in Section 30106 of the Coastal Act, shall occur within the 2.26-acre mitigation area APN 506-291-014, which is located on pastureland in the southwestern third of the site from (south to north) the southern property boundary to the northern end of the remnant sand dune and from (west to east) the forested wetlands to a drainage ditch that runs north/south across the southern half of the property as generally depicted on Exhibit 8, pg. 2 except for:

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- a. The authorized development that is approved by this permit as specifically identified in Finding IV-A, "Project Description;"
- b. Seasonal agricultural grazing; and
- c. The following development, if subsequently authorized by the California Coastal Commission: (a) vegetation clearance if required by the California Department of Forestry and Fire Protection to meet fire safety standards; (b) maintenance of existing utilities and community services infrastructure; (c) improvements for public access purposes; (d) further habitat restoration and enhancement activities; and (e) soil stabilization measures.

- ii. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall cause Caltrans, the landowner of APN-506-291-014, to submit a written agreement, in a form and content acceptable to the Executive Director, expressly acknowledging and agreeing that the 2.26-acre mitigation area on APN 506-291-014, as generally depicted on Exhibit 8, pg. 2, is subject to the restrictions on development set forth in this condition.

11. Agreement to Record a Deed Restriction if either of the Mitigation Properties are to be Conveyed

A. Mitigation Property Owned by the City

- a. PRIOR TO ANY CONVEYANCE OF APN 506-011-004 (the APN containing the 9.4-acre estuarine intertidal salt marsh enhancement mitigation site as generally depicted on Exhibit 8, pg. 3), the City of Arcata shall submit to the Executive Director for review and approval, documentation demonstrating that they as landowner have executed and recorded against APN 506-011-004 a deed restriction, in a form and content acceptable to the Executive Director which reflects the restrictions on development of the subject parcel contained in Special Condition 10 above. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- b. PRIOR TO ANY CONVEYANCE OF APN 506-011-004 and prior to submittal to the Executive Director of the deed restriction required in Part A(a) above, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the deed restriction, a formal metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the portions of APN 506-011-004 affected by this condition, as generally described above and shown on Exhibit 8, pg. 3 attached to this staff report.
- c. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant, as landowner of APN 506-011-004, shall submit a written agreement, in a form and content acceptable to the Executive Director, expressly acknowledging and agreeing to implementation of all of the above terms of this condition.

B. Mitigation Properties Owned by Caltrans

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- a. PRIOR TO ANY CONVEYANCE OF APN 506-291-014 (the APN containing the palustrine emergent wetland mitigation site as generally depicted on Exhibit 8, pg. 2), the permittee shall cause the landowner of APN 506-291-014 to record against APN 506-291-014 a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions on development of the subject parcel contained in Special Condition 10 above. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- b. PRIOR TO ANY CONVEYANCE OF APN 506-291-014 and prior to submittal to the Executive Director of the deed restriction required in Part B(a) above, the permittee shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the deed restriction, a formal metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the portions of APN 506-291-014 affected by this condition, as generally described above and shown on Exhibit 8, pg. 2 attached to this staff report.
- c. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall cause Caltrans, as landowner of APN 506-291-014, to submit a written agreement, in a form and content acceptable to the Executive Director, expressly acknowledging and agreeing to implementation of all of the above terms of this condition.

12. Mitigation for Riparian Wetland Habitat Loss

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall submit, for the review and approval of the Executive Director, a final riparian habitat mitigation and monitoring plan prepared by a qualified botanist or ecologist to mitigate for the impacts to 0.07 acres of one-parameter riparian wetlands at a 2:1 ratio.
 - i. The final riparian habitat mitigation and monitoring plan shall provide for in-kind compensation for the filling of 0.07 acres of riparian wetlands at a 2:1 ratio by creating 0.14 acres of riparian wetlands in the project vicinity.
 - ii. The final riparian habitat mitigation and monitoring plan shall demonstrate that:
 - a. Only habitat-specific, regionally appropriate native vegetation shall be used. The vegetation to be replanted shall be of local genetic stock, if available. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be installed or allowed to naturalize or persist in the mitigation area. No plant species listed as a "noxious weed" by the governments of the State of California or the United States shall be utilized within the mitigation area;

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- b. Revegetation shall achieve a standard for success of at least 80 percent survival of plantings and at least 80 percent ground cover for broadcast seeding after a period of 3 years; and
- c. Rodenticides containing any anticoagulant compounds, including, but not limited to, Bromadiolone or Diphacinone, shall not be used.
- iii. The final riparian habitat mitigation and monitoring plan shall include, at a minimum, the following components:
 - a. A map identifying riparian planting mitigation site(s) totaling 0.14 acres within or adjacent to existing wetlands in the project vicinity, such as areas around creeks and sloughs currently lacking riparian cover;
 - b. Specified goals of the plan, including a clear narrative description of the characteristics of the habitat type that the mitigation is intended to provide, and performance standards for evaluating the success of the riparian mitigation goals that will ensure establishment of 0.14 acres of self-sustaining compensatory riparian vegetation, including at least 2:1 replacement of native riparian trees lost by trail development;
 - c. A description of the existing habitat at the chosen mitigation site(s);
 - d. A schedule for the creation of 0.14 acres of riparian wetland habitat that demonstrates that (a) any required excavation and grading at the mitigation site(s) shall only be performed during the non-rainy season between May 1 and October 15, and shall be completed within three months of completion of construction of the development authorized by Coastal Development Permit 1-16-0122, and (b) the riparian vegetation planting shall be performed between November 1 and April 15 during the first rainy season following completion of the mitigation site(s) excavation and grading work;
 - e. Any necessary grading and erosion and sediment control plans for the mitigation site(s) if soil will be significantly disturbed during the course of the mitigation work;
 - f. A planting plan accompanied by a plant list, which together show the type, size, number, source, and location of all plant materials that will be retained or installed at the mitigation site(s);
 - g. A maintenance plan (e.g., weeding, replacement planting) and monitoring plan to ensure that the specified goals and performance standards have been satisfied. Mitigation site(s) shall be monitored yearly with at least one site visit during the spring or summer months for a minimum of three years following completion of the project. All plants that have died shall be replaced during the next planting cycle (generally between late fall and early spring) and monitored for a period of three years after planting;
 - h. Provisions for submittal within 30 days of completion of the initial mitigation work a report with maps, photographs, and a narrative discussion demonstrating that the riparian wetland mitigation work has been completed in accordance with the approved final riparian habitat mitigation and monitoring plan; and

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- i. Provisions for submittal of a final monitoring report to the Executive Director at the end of the three-year reporting period. The final report must be prepared in conjunction with a qualified wetlands biologist. The report must evaluate whether the revegetation of the site(s) conforms with the goals, objectives, and performance standards set forth in the approved final riparian habitat mitigation and monitoring plan. The report must address all of the monitoring data collected over the three-year period.
- B. If the final monitoring report indicates that the riparian habitat mitigation has been unsuccessful, in part or in whole, based on the approved goals, objectives, and performance standards set forth in the approved final riparian habitat mitigation and monitoring plan, the applicant shall submit a revised or supplemental plan to compensate for those portions of the original plan which did not meet the approved goals, objectives, and performance standards. The revised or supplemental plan shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- C. The applicant shall undertake development in accordance with the approved final riparian habitat mitigation and monitoring plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

13. **Monitoring and Mitigation of Temporary Wetland Impacts.** Where project staging and/or access occurs in wetlands, the areas temporarily impacted shall be revegetated with native wetland plants where bare ground is observed, and shall be monitored for successful plant reestablishment one year following impacts. A monitoring report shall be submitted to the Executive Director by December 31st of that following year. If the monitoring report indicates that the temporarily impacted wetlands do not have a similar vegetative density and cover to the surrounding wetlands, the City shall submit a revised or supplemental restoration program to mitigate for wetland impacts in kind and in place. The revised or supplemental restoration program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

14. **Protection of Special Status Salt Marsh Plants**

- A. Construction in the vicinity of special-status plant populations including, but not limited to, Point Reyes bird's-beak (*Chloropyron maritimum* ssp. *palustre*), Humboldt Bay owl's-clover (*Castilleja ambigua* ssp. *humboldtiensis*), and Lyngbye's sedge (*Carex lyngbyei*), shall be scheduled for times of the year occurring after special-status plants have dropped their seed to the maximum extent feasible to avoid impacts to plant blooming and seed dispersal. Should construction occur during times when special-status plants are present in the project vicinity, prior to the start of construction activities, a qualified biologist shall identify special-status plant populations within 50 feet of the project footprint, including, but not limited to Point Reyes bird's-beak, Humboldt Bay owl's-clover, and Lyngbye's sedge, and temporary flagging shall be erected around the special-status plant populations to ensure avoidance of these areas. The flagging shall be

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periodically inspected throughout each period of construction and repaired as necessary. All pedestrian and vehicular entry into these patches shall be avoided.

B. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall submit, for the review and approval of the Executive Director, a final special-status plant mitigation and monitoring plan to mitigate for direct impacts to special-status plant habitat in the project footprint, including the four patches of Humboldt Bay owl's-clover totaling 389 square feet and three patches of Point Reyes bird's-beak totaling 885 square feet previously identified north and south of Gannon Slough within the footprint of the proposed trail and overlook. The final special-status plant mitigation and monitoring plan shall be prepared by a qualified botanist or ecologist in consultation with staff from the California Department of Fish and Wildlife.

- i. The plan shall demonstrate that:
 - a. No construction activities shall occur in the affected areas until after all Humboldt Bay owl's clover and Point Reyes bird's beak plants have set seed, as determined by a qualified botanist;
 - b. For Humboldt Bay owl's clover and Point Reyes bird's beak plants within the project area of impact, a qualified botanist shall collect and conserve all seeds of the affected individuals to be distributed in a suitable habitat (with suitable host plants, native plant cover, elevations, and tidal exchange for the species) that already contains Humboldt Bay owl's clover and Point Reyes bird's beak near to where the seeds were collected; and
 - c. Collected seeds shall be distributed into the identified habitat areas at the phenologically appropriate time, as determined by the qualified botanist.
- ii. The plan shall include, at a minimum, the following components:
 - a. Updated preconstruction seasonally appropriate botanical surveys conducted by a qualified botanist for Humboldt Bay owl's clover and Point Reyes bird's beak that indicate the number of special-status plant individuals to be impacted by construction activities;
 - b. A map that locates the affected areas relative to the habitat area where seeds will be distributed;
 - c. A narrative that describes the seed collection and distribution program and methods, identifies the habitats that will receive the seeds to be dispersed and why the receiver sites were selected, and discusses the phenologically appropriate time for distribution of the seed; and
 - d. Provisions for submittal within 30 days of completion of the initial mitigation work a report with maps, photographs, and a narrative discussion demonstrating that the initial mitigation work has been completed in accordance with the approved final mitigation plan.
- iii. The applicant shall undertake development in accordance with the approved final special-status plant mitigation and monitoring plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal

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development permit, unless the Executive Director determines that no amendment is legally required.

15. Protection of Bird Nesting Habitat

- A. Potential nesting habitat (i.e., woody vegetation) to be removed by project construction shall be removed between September 1 and January 31, outside the avian nesting season, to the maximum extent feasible.
- B. If it is not feasible to remove potential nesting habitat outside the avian nesting season, a survey for nesting birds in and adjacent to the project construction area shall be conducted by a qualified biologist according to current California Department of Fish and Wildlife (CDFW) protocol no more than seven days prior to the commencement of construction activities. If any active nest is identified during preconstruction surveys, the biologist, in consultation with CDFW, shall determine the extent of a construction-free buffer zone to be established around the nest, and construction in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist. The construction-free buffer zone shall be a minimum of 250 feet for nesting raptors and a minimum of 50 feet for other sensitive bird species.
- C. Prior to the commencement of authorized work each year during the avian nesting season, the permittee shall submit, for the review and approval of the Executive Director, the survey required in Part B above, including a map that locates any nesting habitat identified by the survey and a narrative that describes proposed sensitive habitat avoidance measures.

16. Protection of Northern Red-legged Frogs (*Rana aurora*)

- A. In compliance with Special Condition 17(A), all construction in waterways and wetlands with standing water, including construction within Wetland #1 (the palustrine emergent wetland in the Arcata Marsh and Wildlife Sanctuary depicted on Exhibit 5, pgs. 2-4), shall be limited to the period of the year between July 1 and September 30 to avoid disturbance to breeding northern red-legged frogs.
- B. No more than one week prior to commencement of ground disturbance within 50 feet of all suitable northern red-legged frog habitat, a qualified biologist shall perform a pre-construction survey for the northern red-legged frog and shall coordinate with the California Department of Fish and Wildlife (CDFW) staff to relocate any animals that occur within the work impact zone to nearby suitable habitats.
- C. In the event that a northern-red legged frog is observed in an active construction zone, the contractor shall immediately halt construction activities until a biologist, in consultation with CDFW, has moved the frog to a safe location in similar habitat outside of the construction zone.

17. Construction Responsibilities.

The permittee shall comply with the following construction-related requirements:

- A. Timing of work:

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- i. All construction in stream and slough channels and in wetlands with standing water, including pile driving for bridge construction, shall be limited to the period of the year between July 1 and September 30 to avoid sensitive fish species, breeding northern red-legged frogs, and wet weather.
- ii. All other earth-disturbing activities shall be limited to the dry season, April 15 through October 31. The Executive Director may grant an extension of the work windows through November 30th for good cause upon written request, provided evidence is submitted that continued dry weather is forecast by the National Weather Service during the requested extension period.
- iii. All ground disturbing activities and asphaltic-concrete paving operations shall be performed during dry-weather periods only. If rainfall is forecast (i.e., the National Weather Service's Northwestern California forecast for the Eureka area predicts a greater than 50 percent chance of precipitation for the timeframe in which the work is to be conducted) after construction has commenced and before construction is complete, any exposed soil areas shall be promptly mulched with weed-free straw or covered with sheeting and secured with sand bagging or other appropriate materials before the onset of precipitation. Adequate and effective erosion and sediment control measures shall be used to prevent sediment-laden water from entering coastal waters and wetlands.

- B. Bridge piles shall be installed with a vibratory hammer. Pile driving with an impact hammer is prohibited.
- C. Pile installations, bridge footing installations, and other ground disturbing activities within the channel or below the high tide line shall be isolated from coastal waters by:
 - i. Installing piles during periods of minus ebb tides; and
 - ii. Installing clear water diversions (e.g. cofferdams) as necessary to ensure cast-in-place concrete elements of the bridges and Gannon Slough Overlook are isolated from coastal waters until cured and thus minimize the transport of sediment and concrete pollution to coastal waters.
- D. Pre-construction training shall be provided for all on-site contractors by a qualified biologist to educate personnel on the biological restrictions and sensitivity of habitats in and adjacent to the construction area.
- E. During equipment access and/or staging in wetlands, protective pads (metal/wood/rubber sheets) shall be placed on top of wetlands where equipment access and/or staging would be required to prevent rutting and compression of soils and uprooting or destroying existing wetland vegetation.
- F. On-site native vegetation shall be maintained to the maximum extent feasible during construction activities. Areas where wetland and upland vegetation need to be removed shall be identified in advance of ground disturbance and limited to only those areas identified in the final project plans. Exclusionary fencing shall be installed to mark the boundaries of the work area to ensure construction occurs in the designated areas and does not impact adjacent wetlands and environmentally sensitive areas.
- G. Within 10 days of completion of construction, soils and slopes exposed due to project-related earthwork shall be re-vegetated using native seed mix and/or a sterile quick grow

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species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be planted or allowed to naturalize or persist. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be planted.

- H. Sediment control measures shall be in place prior to the onset of the rainy season and shall be monitored and maintained in good working condition until disturbed areas have been revegetated.
- I. Suitable erosion and sediment control devices, such as silt fences, straw wattles, or catch basins, shall be placed below all construction activities at the edge of surface water features to intercept sediment before it reaches waterways. These structures shall be installed prior to any clearing or grading activities. Sediment built up at the base of structures shall be removed before structure removal to avoid any accumulated sediments from being mobilized post-construction.
- J. To minimize wildlife entanglement and plastic debris pollution, the use of temporary rolled erosion and sediment control products with plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers used in fiber rolls, erosion control blankets, and mulch control netting) is prohibited. Any erosion-control associated netting shall be made of natural fibers and constructed in a loose-weave design with movable joints between the horizontal and vertical twines.
- K. If treated wood is used in trail facilities and amenities such as for benches and bridge decking, the following additional Best Management Practices (BMPs) shall be implemented: (i) no creosote-treated wood shall be utilized; (ii) whenever possible, cutting or drilling of treated wood shall occur at least 100 feet away from coastal waters and wetlands, and any sawdust, drill shavings, and wood scraps shall be contained and collected to prevent the discharge of treated wood to the marine environment; and (iii) treated wood materials shall be stored during construction in a contained, covered area to minimize exposure to precipitation.
- L. No uncured concrete or runoff from uncured concrete shall be allowed to enter coastal waters. Concrete paving and grinding operations, and storm drain inlet protection BMPs shall be employed to prevent concrete grindings, cutting slurry, and paving rinsate from entering drop inlets or sheet-flowing into coastal waters. Concrete delivery vehicle wash-out maintenance at the project site is prohibited.
- M. Any excess excavated material and other construction debris resulting from construction activities shall be removed immediately upon completion of component construction, and shall be disposed of at a disposal site outside the coastal zone or within the coastal zone pursuant to a valid coastal development permit. Any potentially hazardous waste materials would be disposed of at an approved Class II landfill that is equipped to handle hazardous waste.
- N. Equipment when not in use shall be stored in upland areas at least 100 feet away from surface water features, including Humboldt Bay.
- O. Equipment shall use non-toxic vegetable oil for operating hydraulic equipment instead of conventional hydraulic fluids.

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- P. Plastic materials shall be placed under asphaltic concrete paving equipment while not in use to catch and contain drips and leaks.
- Q. Any fueling, maintenance, and washing of construction equipment shall occur in confined upland areas specifically designed to control runoff and located more than 100 feet away from coastal waters.
- R. Fuels, lubricants, and solvents shall not be allowed to enter 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. Any accidental spill shall be rapidly contained and cleaned up.

18. **Avoidance of Soil and Groundwater Contamination.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-16-0122, the permittee shall

- A. Complete pre-construction soil borings where the trail alignment is located within the NCRA right-of-way to characterize soil and groundwater as recommended by the Hazardous Materials Corridor Study prepared for the project (Winzler & Kelly, 2010 and Mark Andre, 2014), and submit the results of soil and groundwater sample analysis for the review and approval of the Executive Director.
- B. Prepare and submit a Construction Soil and Groundwater Management Plan for the review and approval of the Executive Director:
 - i. The plan shall demonstrate that all contaminated soil and groundwater encountered during construction shall be contained, handled, and properly disposed of in a manner that prevents discharge of contaminated soil and groundwater to the surrounding environment;
 - ii. The plan shall provide for field screening during construction activities, and sampling of any impacted soils and groundwater encountered with characterization for off-site disposal; and
 - iii. The plan shall include proposed containment, handling, and disposal methods for special handling of impacted groundwater, impacted soil segregation, and manifested disposal if necessary.
- C. The permittee shall undertake development in accordance with the final plans. Any proposed changes to the final plans shall be reported to the Executive Director. No changes to the final plans shall occur without a Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

19. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to ground shaking, liquefaction, wave run-up, storm surges, flooding, and erosion, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee 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

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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.

20. **Liability for Costs and Attorney's Fees.** The permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit, the interpretation and/or enforcement of permit conditions, or any other matter related to this permit. The permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.
21. **Protection of Archeological Resources**
 - A. **AT LEAST TWO WEEKS PRIOR TO COMMENCEMENT OF GROUND-DISTURBING ACTIVITIES AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-16-0122**, the permittee shall notify the Tribal Historical Preservation Officers (THPOs) from the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria of the construction schedule and arrange for tribal representative(s) to be present to observe ground-disturbing activities if deemed necessary by the THPOs. A cultural resources monitor approved by the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria shall be present to oversee all ground disturbing activities authorized by Coastal Development Permit 1-16-0122 unless evidence has been submitted for the review and approval of the Executive Director that the THPOs of these three entities have agreed that a cultural resources monitor need not be present.
 - B. If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not re-commence until a qualified cultural resource specialist, in consultation with the THPOs of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (a) 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, or (b) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not *de minimis*, and the permittee has thereafter obtained an amendment to coastal development permit 1-16-0122.

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22. Final Site and Construction Plans

- A. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE COASTAL TRAIL PROJECT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-16-0122, the permittee shall submit for the review and written approval of the Executive Director, a revised set of final site and construction plans for the trail that are consistent with the plans submitted to the Commission and attached as Exhibit 3, except that the plans shall demonstrate that impacts to wetlands are minimized through a reduction in surfaced trail width to eight feet with two-foot-wide, unpaved shoulders within the Arcata Marsh and Wildlife Sanctuary where the trail intersects with Wetland Nos. 1-6 (as shown in Exhibit 5, pgs. 2-6).
 - i. The revised final plans shall include, at a minimum, plan and profile architectural drawings for all segments of the trail including the bridges, viewing platform, trailhead, benches, fencing, and railway, roadway, and driveway crossings.
 - ii. The revised final plans shall also identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view.
- B. The permittee shall undertake development in accordance with the revised final plans. Any proposed changes to the revised final plans shall be reported to the Executive Director. No changes to the revised final plans shall occur without a Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

23. Final Design Plans for All Signage

- A. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF SIGNAGE AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-16-0122, the permittee shall submit for the review and written approval of the Executive Director, two copies of a plan for all proposed signage, including informational and directional signage.
 - i. The plans shall demonstrate that all signs to be erected at the project site:
 - a. Are visually compatible with the character of surrounding areas with respect to height and bulk, including signs that are no larger than those currently installed at the adjacent Arcata Marsh and Wildlife Sanctuary;
 - b. Do not significantly obstruct views from public vantage points; and
 - c. Conform in style, materials, colors, and physical appearance with other similar signage within the Arcata Marsh and Wildlife Sanctuary and Humboldt Bay National Wildlife Refuge.
 - ii. The plan shall include, at a minimum, the following components:
 - a. A map or site plan showing the locations of all signage;
 - b. To-scale, dimensioned elevation plan depictions of the signage, including clear representation of sign verbiage, symbology, and size; and
 - c. A description of the materials and colors of all signs.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission

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approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

24. Use, Maintenance, Modification, and Abandonment of Trail

- A. The trail authorized by this coastal development permit shall comply with the following:
 - i. The trail shall be a Class I multi-use trail available for shared public use 24 hours a day daily;
 - ii. The permittee shall be responsible for maintenance of the multi-modal trail and motorized vehicles shall be permitted access by the City and its agents for construction, maintenance and emergency purposes;
 - iii. The City shall maintain continuously all trail improvements in good order and repair and shall allow no nuisances to exist or be maintained therein;
 - iv. No portion of the trail owned by the City of Arcata in fee or by grant of easement may be abandoned by the City until a grant of easement is transferred to another entity, approved by the Executive Director, who can operate that portion of the trail in conformance with all terms and conditions of this coastal development permit; and
 - v. Any proposed changes, including any proposed change in the above-identified scope and manner of use or any proposed relocation or abandonment of any portion of the multi-modal trail, shall require an amendment to Coastal Development Permit No. 1-16-0122 approved by the California Coastal Commission unless the Executive Director determines that no amendment is legally required.
- B. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall enter into a written agreement with the Commission, in a form and content acceptable to the Executive Director, acknowledging and agreeing to implementation of all of the above terms of this condition.

25. Agreement To Record A Deed Restriction if Coastal Trail Property Owned by the City of Arcata is to be Conveyed

- A. PRIOR TO ANY CONVEYANCE OF ANY COASTAL TRAIL PROPERTIES OWNED BY THE CITY OF ARCATA (APNs 503-251-002; 503-251-003; 503-251-012; 503-241-011; 503-241-012; 503-241-010; and 503-241-013) as generally depicted in Exhibit 12, the permittee shall submit to the Executive Director for review and approval, documentation demonstrating that the permittee as landowner has executed and recorded against the property to be conveyed a deed restriction, in a form and content acceptable to the Executive Director, which authorizes the Coastal Trail in the scope and manner set forth in Special Condition 24 above. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

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B. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-16-0122, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, acknowledging and agreeing to implementation of all of the above terms of this condition.

