

San Francisco Bay Conservation and Development Commission

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Agenda Item #8

June 9, 2023

Staff Recommendation

Kilroy Oyster Point Life Sciences Complex

(For Commission consideration on June 15, 2023)

Permit Application Number: 2022.003.00
Applicant: KR Oyster Point III, LLC
Project Description: Construct an approximately 27-acre Life Sciences Office Campus, including a waterfront park.
Location: Within the 100-foot shoreline band, and within a San Francisco Bay-Plan designated “Waterfront Park, Beach” Priority Use Area, at 385 Oyster Point Boulevard, in the City of South San Francisco, San Mateo County.
Application Filed Complete: June 2, 2023
Deadline for Commission Action: August 31, 2023
Staff Contact: Ethan Lavine (415/352-3622; ethan.lavine@bcdc.ca.gov)
Staff Recommendation: **APPROVAL WITH CONDITIONS**

Basis for Staff Recommendation

The staff recommends approval of the application as conditioned in the recommended resolution, below. The proposed project is located partially within a San Francisco Bay Plan-designated “Waterfront Park, Beach” Priority Use Area. The uses proposed within this area are consistent with this designation. Among other things, the recommended resolution includes special conditions to:

- Require a total of 4.25 acres of dedicated public access (including already dedicated and newly dedicated areas) and construct new public access facilities within these areas.
- Require a sea level rise adaptation planning process to ensure the continued viability of the public access areas into the future.



Recommended Resolutions and Findings

The staff recommends the Commission adopt the following resolution:

I. Authorization

A. Authorized Project

Subject to the conditions stated below, the permittee, KR Oyster Point III, LLC, is granted permission to do the following within the 100-foot shoreline band, at 385 Oyster Point Boulevard, in the City of South San Francisco in San Mateo County.

1. Within the 100-foot Shoreline Band

a. Site Preparation and Utilities

Remove existing improvements, regrade the site, and install and maintain in-kind underground utility services (including fire water, domestic water, storm drain, sanitary sewer, communications, and electrical).

b. Shoreline Protection

Repair and maintain in-kind portions of a riprap shoreline revetment system within an approximately 34,663-square-foot area.

c. Waterfront Park

Construct, use, and maintain in-kind an approximately 3.94-acre portion of shoreline public access, as described in more detail in Section II.B.4 (“Improvements within the Total Public Access Area”) below. (The overall shoreline Public Access Area is 4.25 acres, with the remaining area located outside of the Commission’s permitting jurisdiction.)

d. Publicly Accessible and Office Campus Programmed Open Space Areas

Construct, use, and maintain in-kind an approximately 0.22-acre area of non-dedicated “Publicly Accessible” areas and office-oriented programmed open spaces. (The remainder of the programmed open spaces are located outside of the Commission’s permitting jurisdiction.)

B. Permit Application Date

This authority is generally pursuant to and limited by the application dated May 13, 2022, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions hereto.

C. Deadlines for Commencing and Completing Authorized Work

Work authorized herein must commence prior to July 1, 2026, or this permit will lapse and become null and void. All work authorized herein must be completed by July 1, 2028, unless an extension of time is granted by amendment of the permit.

Once commenced, all work authorized or required by this permit must be diligently pursued to completion and must be completed within two years of commencement, unless an extension of time is granted by amendment of the permit.

D. Related Permits

The project site was previously developed pursuant to BCDC Permit No. 1982.004.02(B), which authorized construction of the Oyster Cove Marina, located in the Bay adjacent to the project site, as well as development in the 100-foot shoreline band, including surface parking, a roadway, a small portion of one of the existing office buildings at the site, and the shoreline public access areas at the site. This permit redevelops the entire area within the 100-foot shoreline band covered by BCDC Permit No. 1982.004.02(B). The Oyster Cove Marina and associated in-Bay facilities remain authorized by Permit No. 1982.004.02(B), but upland facilities for the marina and parking will be relocated within the footprint of the Oyster Point Life Science Complex. The 3.79 acres of public access required by BCDC Permit No. 1982.004.02(B) is hereby replaced and enhanced by the approximately 4.25-acre shoreline public access required of this permit. BCDC Permit No. 1982.004.02(B) will need to be administratively amended to reflect the changes resulting from issuance of this permit.

The work within the Commission's permitting jurisdiction that is authorized by this permit is associated with Phases 3 and 4 of the 30-acre Master Planned Oyster Point Waterfront District in the City of South San Francisco. (Phase 2D is also part of the overall Kilroy Oyster Point Life Sciences Project, though it is located outside of the Commission's permitting jurisdiction.) The Commission previously authorized the work associated with Phases 1 and 2C of the Oyster Point Waterfront District as part of BCDC Permit No. 2017.007. That permit, issued to Kilroy Realty TRS, Inc. and the City of South San Francisco, authorized redevelopment of much of the Oyster Point Peninsula to the east of the project site (in the vicinity of the Oyster Point Marina), and included redevelopment of 9.99 acres of waterfront parks. As they were designed as part of the same overall master planning process, the public access areas provided by both that permit and this permit are intended to provide a connected and integrated open space network linking the entire peninsula.

II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. Specific Plans and Plan Review

1. Project Plans

The development authorized herein shall be built generally in conformance with the following documents:

- The drawings attached to this permit as Exhibit A, titled "KOP-BCDC-Open Space Materials & Furnishings," prepared by James Corner Field Operations.
- The drawings attached to this permit as Exhibit B, titled "Oyster Point Waterfront BCDC Permit Exhibits," prepared by James Corner Field Operations.

The permittee is responsible for assuring that all construction documents accurately and fully reflect the terms and conditions of this permit and any legal instruments submitted pursuant to this authorization. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

2. Plan Review and Approval

Unless otherwise provided by this permit, no work whatsoever shall commence pursuant to this permit until final documents regarding authorized and required activities are approved in writing by or on behalf of the Commission. Documents submitted shall be accompanied by a written request for plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. All documents will be reviewed within 60 calendar days of receipt. To save time, preliminary documents may be submitted prior to the submittal of final documents. If final document review is not completed by or on behalf of the Commission within the 60-day period, the permittee may carry out the project authorized herein in a manner consistent with the plans referred to in Special Condition II.A.1 (“Project Plans”) of this permit.

a. Document Details

All construction documents shall be labeled with: the Mean High Water line or the upland extent of marsh vegetation no higher than +5 feet above Mean Sea Level and the tidal datum reference (NAVD88 or, if appropriate, Mean Lower Low Water (MLLW)); the corresponding 100-foot shoreline band; property lines; the location, types, and dimensions of materials, structures, and project phases authorized and required herein; grading limits; and the boundaries of Public Access Area and view corridor(s) required herein. Documents for shoreline protection projects must be dated and include the preparer’s certification of project safety and contact information. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

b. Conformity with Final Approved Documents

All authorized development and uses shall conform to the final documents. Prior to use of the facilities authorized herein, the appropriate professional(s) of record shall certify in writing that the work covered by the authorization and required of this permit has been implemented in accordance with the approved criteria and in substantial conformance with the approved documents.

No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

c. Discrepancies between Approved Plans and Special Conditions

In case of a discrepancy between final approved documents and the special conditions of this permit or legal instruments, the special condition shall prevail.

d. **Reconsideration of Plan Review**

The permittee may request reconsideration of a plan review action taken pursuant to this special condition within 30 days of a plan review action by submitting a written request for reconsideration to the Commission's Executive Director. Following the Executive Director's receipt of such a request, the Executive Director shall respond to the permittee with a determination on whether the plan review action in question shall remain unchanged or an additional review and/or action shall be performed by or on behalf of the Commission, including, but not limited to, an amendment to the permit and/or consultation with the Commission Design Review Board or Engineering Criteria Review Board.

B. Public Access

1. **Total Public Access Area**

The overall proposal for public access for this project includes:

- New dedicated public access in the shoreline band: 37,929 square feet
- New dedicated public access outside the Commission's permitting jurisdiction: 13,510 square feet
- Already dedicated public access to be improved: 133,840 square feet (BCDC Permit No. 1982.004.11B)¹

The approximately 4.25-acre (185,279-square-foot) "Public Access" area, along approximately 2,313 linear feet of shoreline as generally shown on Exhibit A shall be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, fishing, picnicking, and related purposes. If the permittee wishes to use the public access area for purposes other than public access, it must obtain prior written approval by or on behalf of the Commission.

2. **Permanent Guarantee**

Prior to the commencement of any grading or construction activity, the permittee shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the 185,279-square-foot Public Access Area. The instrument(s) shall create rights in favor of the public which shall commence no later than after completion of construction of any public access improvements required by this authorization and prior to the use of any structures authorized herein. Such instrument(s) shall be in a form that meets recordation requirements of San Mateo County and shall include a legal description of the property being restricted and a map that clearly shows the shoreline (Mean High Water Line or up to 5 feet above Mean Sea Level if marsh is present), the property being restricted for public access, the legal description of the

¹ An approximately 31,423-square-foot portion of the overall 165,263-square-foot public access area previously dedicated in BCDC Permit No. 1982.004.11B is no longer required to be dedicated as public access area with the execution of this permit.

property and of the area being restricted for public access, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank of any levees, any significant elevation changes, and the location of the nearest public street and adjacent public access areas. The instrument(s) shall specify that it supersedes and replaces that instrument recorded on August 24, 2003 as instrument no. DOC 2003-205194 page 1 of 33 Recorded in Official Records in the County of San Mateo that was required to permanently guarantee public access pursuant to Special Condition II.C.3 ("Instruments") of BCDC Permit No. 1982.004.11B. Approval or disapproval of the instrument(s) shall occur within 30 days after submittal for approval and shall be based on the following: (a) Sufficiency of the instrument(s) to create legally enforceable rights and duties to provide the Public Access Area required by this authorization; (b) Inclusion of an exhibit to the instrument(s) that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and (c) Sufficiency of the instrument(s) to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.

3. Recordation of the Instrument

Within 30 days after approval of the instrument(s), the permittee shall record the instrument(s) on all parcels affected by this instrument(s) and shall provide evidence of recording to the Commission. No changes shall be made to the instrument(s) after approval without the express written consent by or on behalf of the Commission.

4. Improvements Within the Total Public Access Area

Prior to the occupancy of any structure within Phases 3 or 4 of the Oyster Point Waterfront Project, the permittee shall install the following improvements, as generally shown in the plans described in Special Condition II.A.1 ("Project Plans") above. The referenced plans illustrate the approximate location of site furnishings including but not limited to: covered waste receptacles, seating, picnic tables, bike racks, lighting, and workout equipment. The quantities of furnishings described in the referenced plans are to represent a minimum, but modifications of type and number of furnishings can be approved through the Plan Review process outlined in Special Condition II.A ("Specific Plans and Plan Review") upon a finding that such modifications provide for the same general level of service and functionality.

The improvements shall be constructed, at minimum, to the grades indicated in Table 3-1 of the Sea-Level Risk Assessment Report, prepared by Moffatt and Nichol and dated November 2022, included as part of the application. All improvements shall be designed in compliance with ADA standards and best practices to ensure Universal Design to the maximum feasible extent.

a. Bay Trail

A minimum 20-foot-wide, approximately 2,474-foot-long segment of the San Francisco Bay Trail (49,485 square feet), with furnishings including but not limited to bike racks, lighting, waste receptacles, and dog waste bag stations.

- b. **Wetland Terraces**
An approximately 9,600-square-foot area, including: an approximately 7,168-square-foot terraced garden area (that will include salt-tolerant plantings); and approximately 2,432-square-foot hardscape area.
- c. **Workout Terrace**
An approximately 3,607-square-foot hardscape area with site furnishings including workout equipment and waste receptacles.
- d. **Southern Seating Terrace**
An approximately 2,392-square-foot planted area, including approximately 80 linear feet of seating.
- e. **Coastal Gardens**
An approximately 22,400-square-foot area, including: an approximately 16,267-square-foot coastal grassland area; an approximately 6,133-square-foot hardscape area, including 6- to 10-foot-wide pathways; 512 linear feet of seating; and furnishings including waste receptacles.
- f. **Marina Steps**
An approximately 9,300-square-foot area, including an approximately 2,165-square-foot planted area with trees; and an approximately 7,135-square-foot hardscape area including rustic, informal boulders arranged to create seating steps and platforms.
- g. **Flexible Lawn**
An approximately 7,659-square-foot lawn area.
- h. **Picnic Grove**
An approximately 3,000-square-foot hardscape area, including picnic tables and trees.
- i. **North Seating Terrace**
An approximately 3,405-square-foot lawn area, including approximately 155 linear feet of seating.
- j. **Oyster Cove Beach**
An approximately 7,000-square-foot area, including: an approximately 2,128-square-foot perched sandy beach (with wood deck transition to manage sand on the Bay Trail and provide an inclusive access experience) surrounded by meadow and tree clusters; and an approximately 4,872-square-foot hardscape area, including boulder features.
- k. **Building J Promontory Gardens**
An approximately 3,461-square-foot stepped seating and overlook area, including a 6- to 14-foot-wide, approximately 600-foot-long path; approximately 486 linear feet of seating; and furnishings including waste receptacles.

- I. Bay Launch
An approximately 893-square-foot area, including a minimum 6-foot-wide, approximately 200-foot-long ADA compliant switchback path to provide pedestrian and boat access to the water's edge and access to the northernmost marina pier.
 - m. City View Gardens
An approximately 6,000-square-foot area, including: an approximately 4,336-square-foot planted area; an approximately 1,664-square-foot hardscape area, which includes a 6- to 14-foot-wide, approximately 139-foot-long path; approximately 45 linear feet of seating; and furnishings including waste receptacles.
 - n. East-West Link
A minimum 20-foot-wide, approximately 424-foot-long multi-use trail (9,370 square feet).
5. Non-Dedicated Publicly Accessible Area
Prior to the occupancy of any structure within Phases 3 or 4 of the Oyster Point Waterfront Project, the permittee shall provide an approximately 2.12-acre (92,154-square-foot) "Publicly Accessible" area as generally shown on Exhibit B, Figure 9. The area shall be principally comprised of planted landscaping and hardscape elements, as shown in the project plans referenced in Special Condition II.A.1 ("Project Plans"). The area shall be made available to the public free of charge, and shall operate similarly to the Public Access Area and be subject to the same use requirements identified in Special Condition II.B.1 ("Total Public Access Area") above, except that it is not subject to the requirements to prepare and record instruments permanently dedicating and restricting the area as required in Special Conditions II.B.2 ("Permanent Guarantee") and II.B.3 ("Recordation of the Instrument") above. The permittee may temporarily use of portions of this area (i.e., those areas adjacent to tenant-use areas) for special events, including up to 10 events per year, provided that each event lasts no longer than 10 hours and is located outside of the Bay Plan-designated Waterfront Park, Beach Priority Use Area (see Exhibit B). Any use of this area for private events that exceeds the limitations identified above must be approved by or on behalf of the Commission, according to the process outlined in Special Condition II.A ("Specific Plans and Plan Review"). If the permittee wishes to use the area for purposes other than those described here, it must obtain prior written approval by or on behalf of the Commission.
6. Public Shore Parking
Prior to the occupancy of any structure within Phases 3 or 4 of the Oyster Point Waterfront Project, the permittee shall provide at least 15 signed "Public Shore" parking spaces free-of-charge for public use within the surface parking lots adjacent to the waterfront park as shown on Exhibit A. The number of "Public Shore" parking spaces within the respective lots may be redistributed if the need arrives provided

that a total of 15 spaces are provided overall. Modifications to the “Public Shore” parking areas must be reviewed and approved by BCDC staff according to the Plan Review process outlined in Special Condition II.A above.

7. Public Access Signage, Wayfinding, and Interpretive Elements Plan

At least 180 days prior to use of any improvements authorized or required by this permit, the permittee shall submit for review and approval by or on behalf of the Commission a comprehensive Public Access Signage, Wayfinding, and Interpretive Elements Plan (“Sign Plan”) that establishes a program found to maximize public recognition, use, and enjoyment of the site’s public access improvements. The Sign Plan will identify appropriate measures to communicate to the diversity of social and linguistic groups residing in the surrounding community, and at minimum will provide signage in English and Spanish. The Sign Plan shall also incorporate Universal Design features to maximize use across a wide variety of users, which could include tactile elements, Braille signage, or other elements. The Sign Plan shall provide detail on the location, quantity, and design of wayfinding, interpretive, “Public Shore,” “Public Shore Parking,” and Bay Trail signs. The Sign Plan shall be reviewed through the Plan Review process established in Special Condition II.A (“Specific Plans and Plan Review”) above.

8. Maintenance

The areas and improvements within the total 185,279-square-foot Public Access Area and the 92,154-square-foot Publicly Accessible Area shall be maintained by and at the expense of the permittee or its assignees. Such maintenance shall include, but is not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, drinking fountains, waste containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site.

9. Assignment

In the event that the permittee sells or otherwise transfers its fee interest in the property, the permittee shall transfer maintenance responsibility of the Public Access Area and Publicly Accessible Area to a public agency or another party that is willing and able to accept the maintenance obligations under this permit related to the Public Access Area and Publicly Accessible Area. Transferee must agree in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.

10. Reasonable Rules and Restrictions

The permittee may impose reasonable rules and restrictions for the use of the Public Access Area or Publicly Accessible Area to correct particular problems that may arise. Such limitations include the public safety rules submitted as part of the

application, entitled “KOP Life Sciences Complex Phase 3 & 4, Approved Public Use Area Regulations, May 23, 2023 (updated May 31, 2023).” Such limitations, rules, and restrictions that have not been previously approved by BCDC as specified in the above-referenced document shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the areas, and would tend to correct a specific problem that the permittee has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

11. Minimizing Construction-Related Closures to Public Access

Prior to commencing construction for any work located within the 185,279-square-foot area required by Special Condition II.B.1 (“Total Public Access Area”), the permittee shall submit a plan for review and approval under Special Condition II.A (“Specific Plans and Plan Review”) to ensure construction-related closure of the existing public access areas is reasonably minimized.

12. Bay Trail Connections to Neighboring Parcels

At its intersection with neighboring parcels, the Bay Trail segment constructed pursuant to the authorization and requirements of this permit shall provide an ADA-accessible connection to match the grade of the existing Bay Trail segments on neighboring parcels to the East and West of the project site. If in the future, the grade of either of the neighboring parcels is raised to provide flood protection to those sites, the permittee shall take necessary actions to modify the area where the public access area conforms to these grades to match the new elevations of the neighboring parcel(s). Such modifications must be reviewed and approved by BCDC staff according to the Plan Review process outlined in Special Condition II.A above (“Specific Plans and Plan Review”).

C. View Corridors

1. Visual Access

The permittee shall maintain for the life of this permit, three view corridors, as shown on Exhibit B, Figure 10. The view corridors include: (1) an approximately 10-foot-wide corridor extending from the cul-de-sac of Oyster Point Boulevard along the drive aisle to the shoreline; (2) an approximately 10-foot-wide corridor extending from the intersection of Oyster Point Boulevard and Gull Drive, and extending along Gull Drive to the shoreline; and (3) an approximately 10-foot-wide corridor extending from the intersection of Oyster Point Boulevard and the East-West Link pedestrian path to the shoreline. The permittee shall not allow any portion of any structure or any appurtenant structure, other than those depicted in the Project Plans referenced in Special Condition II.A (“Specific Plans and Plan Review”), to intrude into the view corridor, unless approved by or on behalf of the Commission pursuant to the Plan Review process outlined in Special Condition II.A (“Specific Plans and Plan Review”) upon a finding that such structures do not significantly diminish views to the Bay. Likewise, the permittee shall landscape the

view corridor only according to the general planting pallet depicted in the reference plans, or with plants or shrubs that do not exceed three feet in height and that have been approved by or on behalf of the Commission pursuant to the Plan Review process outlined in Special Condition II.A (“Specific Plans and Plan Review”) upon a finding that such plantings do not significantly diminish views to the Bay.

2. Maintenance of Landscaping

The permittee shall maintain the view corridors. Maintenance shall consist of the regular trimming of shrubs and any plants to prevent their exceeding the above-mentioned parameters and clearing and replacing of any dead plants.

D. Flooding and Adaptation

1. Flood Reports

With the exception of the lower-lying “Wetland Terrace” areas identified on Exhibit A, if any portion of the Public Access Area required by Special Condition II.B.1 (“Total Public Access Area”) is subject to flooding that results in its closure in whole or in part, the permittee shall submit to the Commission a written report within 30 days after the flooding incident with documentation of: the date and duration of the closure; the location of the affected site; the recorded water levels during the closure period; the source of flooding (e.g., coastal flooding, groundwater flooding, stormwater backup, or overland flow); the resulting damage or cleanup; and illustrative photographs with site details.

2. Risk Assessment

Within 90 days of the first occurrence of flooding that results in closure of any portion of the Public Access Area (with the exception of the “Wetland Terraces”), or by December 31, 2050, whichever is sooner, the permittee shall prepare and submit a revision of the document titled “Kilroy Oyster Point Development Sea-Level Rise Risk Assessment Report” (“Risk Assessment”), prepared by Moffatt and Nichol and dated November 2022 (“Risk Assessment”) and submitted as part of this application, to be approved by or on behalf of the Commission, pursuant to the process outlined for Plan Review in Special Condition II.A (“Specific Plans and Plan Review”). The Executive Director may determine that a flood event unrelated to reoccurring flood risk (e.g., clogged storm drain) does not trigger the requirement to prepare a revised Risk Assessment.

The revised Risk Assessment shall incorporate: (1) the most up-to-date sea level rise guidance and policies related to sea level rise from relevant state and federal agencies, including the Commission; (2) an analysis of current and future water levels; (3) an analysis of landfill subsidence and groundwater rise and their contribution to flooding; (4) a report of any observed flooding events to date; (5) an analysis of the risk of flooding due to all types of potential flooding; (6) consequences of defense failure; and (7) degrees of uncertainty.

3. Sea Level Rise Adaptation Planning and Implementation

Should the revised Risk Assessment identify current or future flood risk for the Public Access Areas required by Special Condition II.B.1 (“Total Public Access Area”) (with the exception of the “Wetland Terraces”) for the anticipated life of the project or to the end of the century, whichever is later, the permittee shall prepare a Sea Level Rise Adaptation Plan consistent with Commission policies at the time of revision. The Sea Level Rise Adaptation Plan shall be submitted for review and approval on behalf of the Commission within 180 days of approval of a revised Risk Assessment that identifies flood risks for which adaptation planning is required. The Sea Level Rise Adaptation Plan shall meet the following objectives:

a. Adaptation Measures

Measures shall be developed to address impacts to the project that, based on the best-available science at the time the Sea Level Rise Adaptation Plan is submitted to the Commission, can foreseeably arise as a result of flooding for the period during which the authorized uses will remain in place. The Public Access Area required in Special Condition II.B.1 (“Total Public Access Area”), with the exception of the areas labeled “Wetland Terraces,” shall be protected from flooding by raising the elevation of the public access, relocating it farther upland, installing a flood protection device (e.g., seawall, barrier wall, bulkhead, cutoff wall, etc.), or by another method acceptable to the Commission. Any adaptive measure proposed shall ensure that shoreline public access will be roughly equivalent in terms of overall area and function to that public access required in this permit.

b. Implementation Schedule

A timeline shall be established to implement the required adaptation measures, which shall ensure that necessary actions are taken in advance of the time that use of the public access is impaired by flooding (outside of an extreme or unpredictable storm event). Upon review and approval of the Sea Level Rise Adaptation Plan by or on behalf of the Commission, the permittee shall implement all approved adaptation strategies within the approved timelines of the implementation schedule. Depending on the actions required to implement the Sea Level Rise Adaptation Plan, the permittee may be required to obtain a permit or permit amendment from the Commission. No permanent restrictions or closures of required public access areas may take place without additional approval by or on behalf of the Commission.

E. Regional Project Database (EcoAtlas Project Tracker)

Within 90 days of receiving plan review approval for any construction documents related to shoreline protection or sea level rise resilience and adaptation measures, the permittee shall enter project details into the online regional project database (EcoAtlas Project Tracker, <https://ptrack.ecoatlas.org/>) for tracking such efforts. After such project elements have been constructed, the permittee shall update details in the regional project database to reflect as-built conditions. The permittee shall also upload all

relevant project adaptation and monitoring plans, flood monitoring reports, and risk assessments to the regional project database required under Special Conditions II.D (“Flooding and Adaptation”) as they are completed, in addition to submitting these documents directly to BCDC staff. For guidance on data entry requirements and instructions for uploading documents to the regional project database, please visit BCDC’s website or contact BCDC staff.

F. Recording

The permittee shall record this permit on all parcels affected by this permit with San Mateo County within 30 days after execution of the permit, and shall, within 30 days after recordation, provide the original recordation to the Commission.

G. Foundation Layout Inspection

1. Written Request

Prior to constructing any building forms for any structure that will be located in or adjacent to BCDC’s 100-foot-wide shoreline band or required public access or open space area, the permittee shall request in writing an inspection by the Commission staff of the foundation layout as it has been surveyed and staked in the field relative to MHW or 5 feet above mean sea level in marshland.

2. Certificate of Foundation Layout Inspection

Within 5 working days of receipt of the written request for an inspection, the Commission’s staff will inspect the foundation layout as it has been surveyed and staked in the field for any structure that will be located in or adjacent to BCDC’s 100-foot-wide shoreline band or required public access or open space area. The permittee shall not commence construction of the forms or pour the foundation until the staff has confirmed in writing that the foundation layout is consistent with the terms and conditions of the permit by providing the permittee with a Certificate of Foundation Layout Inspection.

3. Responsibility of Permittee

If the staff is unable to perform this inspection within the 5 working day period, the permittee may commence such work, but the staff’s inability to complete such an inspection does not relieve the permittee of the responsibility to provide public access areas and build any structures in accord with the approved plans.

H. Certificate of Occupancy and Use

Prior to occupancy or use of any of the improvements authorized herein, the permittee shall submit the Notice of Completion and Compliance (available on BCDC’s website) and request in writing an inspection of the project site by the Commission staff. Within 30 days of receipt of the written request for an inspection, the Commission’s staff will: (1) review all permit conditions; (2) inspect the project site; and (3) provide the permittee with written notification of all outstanding permit compliance problems, if any. The permittee shall not occupy or make use of any improvements authorized herein until the staff has confirmed that the identified permittee compliance problems

have been satisfactorily resolved and has provided the permittee with a Certificate of Occupancy or Use. Failure by the staff to perform such review and inspection and notify the permittee of any deficiencies of the project within this 30-day period shall not deem the project to be in compliance with the permit, but the permittee may occupy and use the improvements authorized herein.

I. Notice of Assignment

1. Notice to Buyers

Prior to entering into any agreement to transfer any interest in any property subject to this permit, the permittee, or any assignee(s) of this permit or any part of it, shall provide the third party with a copy of this permit and shall call his or her attention to any provisions regarding public access or open space or the need to obtain approval of construction plans prior to the commencement of any construction.

2. Assignment of Permit

No more than 10 days after transferring any interest in any property subject to this permit to another party, the transferor shall: (a) notify the Commission of the nature of the transfer, the name, address, and telephone number of the transferee, and the effective date of the transfer, and (b) shall also submit an assignment of this permit for the area transferred that has been executed by the transferor and the transferee and that indicates that the transferor has transferred the permit as it applies to the property that was transferred and that the transferee has read, understood, and has agreed to be bound by the terms and conditions of this permit. The requirements for completing a permit assignment are specified in BCDC's regulations codified at 14 CCR section 10830. For convenience, a template assignment form and instructions for completing it are located on BCDC's website.

III. Findings

This authorization is given on the basis of the Commission's findings and declarations that the work authorized herein is consistent with the McAteer-Petris Act, the San Francisco Bay Plan (Bay Plan), the California Environmental Quality Act (CEQA), and the Commission's amended coastal zone management program for San Francisco Bay for the following reasons:

A. Use

The project site is located in part within a San Francisco Bay Plan-designated "Waterfront Park, Beach" Priority Use Area (PUA), as identified on Bay Plan Map No. 5. Within the portions of the site carrying this designation, the project authorized by this permit includes only dedicated public access facilities or non-dedicated "Publicly Accessible" areas comprised of landscaping or paths, all of which constitute or are compatible with a waterfront park. No private improvements associated with the office campus are located nor allowed within the Priority Use Area. The Commission thus finds that the authorized project is consistent with the uses for the Waterfront Park, Beach PUA designation established by the Bay Plan.

B. Public Access

The Commission finds that the project, as conditioned, is consistent with McAteer-Petris Act and Bay Plan policies related to public access for the following reasons:

1. Total Public Access Area

Section 66602 of the McAteer-Petris Act states, in part, that “...existing public access to the shoreline and waters of the ... [Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided.” Section 66632.4 states, in part, that “[w]ithin any portion or portions of the shoreline band that are located outside the boundaries of water-oriented priority land uses...the commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the bay and its shoreline.”

Bay Plan Public Access Policy No. 2 states, in part, that “maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline.” Policy No. 7 states, in part, that “[w]henver public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed.”

In assessing whether a proposed project provides the maximum feasible public access to the Bay and its shoreline, in past instances the Commission has considered factors including the existing conditions at the project site, the proposed public access improvements provided by a project, the existing and future demand for public access facilities resulting from the proposed project, and its previous actions on comparable projects.

The project site is currently a commercial area characterized by single-story office/industrial buildings surrounded by surface parking lots, alongside a private marina. The project site includes an approximately 3.79 acre (165,263-square-foot) public access area constructed in association with BCDC Permit No. 1982.004.01(B), which includes an 8-foot-wide segment of the San Francisco Bay Trail running along the western perimeter of the project site.

The project would result in a complete redevelopment of the existing waterfront park, which would be expanded by approximately 0.46 acres, to approximately 4.25 acres of shoreline public access. The redesigned waterfront park would include enhanced public access facilities, as discussed in the section below. In total, the project increases the dedicated public access area available at the site by approximately 12 percent compared to existing conditions.

In addition to the dedicated Public Access Area provided by the project, the project includes an approximately 92,154 acre “Publicly Accessible” area consisting mainly of landscaping and pathways, which is located between the Public Access Area and the campus-oriented development (see Exhibit B, Figure 9). Though this area does not contribute to the Commission’s determination that the project provides

“maximum feasible public access, consistent with the proposed project, to the Bay and its shoreline” because the area is not dedicated pursuant to Bay Plan Public Access Policy No. 7, the design is closely integrated so that the dedicated Public Access Area and the non-dedicated Publicly Accessible Area will look and feel like an integrated waterfront park to any member of the public who uses them. The area is required by Special Condition II.B.5 (“Non-Dedicated Publicly Accessible Area”) to function similar to the dedicated Public Access Area in that it must be made available to the public free-of-charge and be properly maintained. This designation ensures that only uses consistent with a Waterfront Park will occur within the portions of the Publicly Accessible Area located within the Waterfront Park, Beach Priority Use Area.

The project increases the intensity of use at the site, bringing many new workers and visitors to the site on a daily basis. The approximately 404,000 square feet of existing low-rise buildings on the site currently are used by an estimated 75 to 100 people each day. The 27-acre office campus that is the subject of this permit includes 1.7 million square feet of building area, including office buildings ranging from 6- to 8-stories, and is anticipated to bring approximately 5,960 employees to the site on a daily basis (including those associated with Phase 2, which is part of the overall Kilroy Oyster Point Life Sciences Complex project, but located outside of the Commission’s permitting jurisdiction). This new population will be users of the public access on the shoreline of the site, and will place demands on adjacent shoreline public access areas beyond current conditions.

Table 1 below is included to provide a comparison of the public access provided by the project with that of similar projects approved by the Commission. The following were selected because they represented similar conditions, primarily that they were for new or redeveloped office campuses of comparable size.

TABLE 1. COMPARISON OF TOTAL PUBLIC ACCESS PROVIDED BY COMPARABLE PROJECTS.

Project	Total Area	No. of Employees	Public Access Area	Public Access as Percentage of Total Area	Public Access Area Per Employee
Kilroy Oyster Point Life Sciences Complex	27 acres	5,960	4.25 acres (185,279 sf)	15%	31 sf
Burlingame Point Office Campus	18.3 acres	2,745	3.68 acres (160,300 sf)	20%	58 sf
Wind River Office Campus	8.6 acres	1,250	4 acres (174,240 sf)	47%	139 sf
Sierra Point Office Campus	22.8 acres	1,800	3.66 acres (159,430 sf)	16%	88 sf

BCDC Permit No. 2013.001, issued to the City of Burlingame and Burlingame Point, LLC, for the Burlingame Point development (now a campus of Meta). The approximately 18.13-acre office campus was designed to provide office space for approximately 2,745 employees. The project provided a total of approximately 3.68 acres of shoreline public access.

BCDC Permit No. 1997.009, issued to LVA4 Alameda WRW, L.P. and LVA4 Alameda WRW II, L.P., for the Wind River office campus in the City of Alameda. The 8.6-acre office campus was designed to provide office space for approximately 1,250 employees. The project provided a total of approximately 4 acres of shoreline public access.

BCDC Permit No. M2008.019, issued to HCP LS Brisbane, LLC, for the Sierra Point office campus in the City of Brisbane. The approximately 22.8-acre office campus was designed to provide office space for approximately 1,800 employees. The project provided a total of approximately 3.66 acres of shoreline public access.

The project authorized by this permit provides a similar percentage of its overall site for shoreline public access to the other comparable Burlingame Point and Sierra Point projects described above (with Wind River being the relative outlier compared to these other projects). In terms of the level of new activity the project is anticipated to generate on the shoreline, the demands generated by this project are higher than the comparable projects referenced above, albeit on a larger project site. The Oyster Point Life Sciences Complex is anticipated to provide space for approximately 5,960 new employees, versus approximately 2,745 employees for the next lower comparable project at Burlingame Point. The careful design and thought provided to programming of the public access areas for this project nonetheless allows for these spaces to provide for an attractive and enjoyable public experience at the shoreline for the anticipated users. Special Condition II.B.2 (“Permanent Guarantee”) is included to ensure that the total 4.25-acre public access area is to be guaranteed and made available exclusively to the public for unrestricted access for walking, biking, sitting, viewing, fishing, picnicking and related purposes. This includes the 3.79 acres previously required under BCDC Permit No. 1982.004.02(B) (though some small portion of this dedicated area has been removed and is now used as campus-centric open spaces), and 0.46 acres of newly required public access areas. The Commission finds that the total dedicated Public Access Area provided by the project is appropriate given the on-the-ground conditions at the site, because it is roughly in line with the quantity of area to be dedicated found acceptable by the Commission for comparable projects, and in light of the high quality of design of the public access improvements and amenities within the Public Access Area discussed in more detail below.

The site also features a 2.12-acre “Publicly Accessible” area that extends beyond BCDC's shoreline band jurisdiction consisting of mostly landscape plantings and pathways connecting the office campus to the waterfront park. While the publicly accessible area is not dedicated as public access pursuant to Public Access Policy No. 7 and thus does not contribute to the Commission’s determination that the

project provides “maximum feasible public access, consistent with the proposed project, to the Bay and its shoreline,” it will complement the Public Access Area. Because the site was designed as a single unit, the overall feel will be that of an integrated waterfront park. Special Condition II.B.5 (“Non-Dedicated Publicly Accessible Area”) is included to ensure that the publicly accessible area is used in a manner consistent with and to effectuate this purpose for the life of the permit, but does not require that the area be permanently guaranteed as dedicated public access.

2. Public Access Improvements and Amenities

The following section discusses the improvements and amenities within the dedicated shoreline public access area. Key Bay Plan policies utilized by the Commission to evaluate the adequacy of the public access are discussed in the sections below.

a. Facilities within Waterfront Parks

The project site includes a Bay Plan-designated “Waterfront Park, Beach” Priority Use Area. Bay Plan Recreation Policy No. 4(a)(2) states, in part, that: “To capitalize on the attractiveness of their bayfront location, [waterfront] parks should emphasize hiking, bicycling, riding trails, picnic facilities, swimming, environmental, historical and cultural education and interpretation, viewpoints, beaches, and fishing facilities.”

The public access facilities provided by the project replace the relatively simple condition of the shoreline, which includes Bay Trail, lawn, and plantings, with a more highly programmed and diverse set of uses. The application describes the design as one that, as stated in the application for this permit, “utilizes topography to create elevated promontories, or ‘points,’ and open waterside rooms, or ‘flats.’ This ‘up and down’ pushing and pulling of the earth takes advantage of the existing topographical conditions on site, enhances access to the site’s water views, creates an informal and intuitive circulation for the site, and establishes a variety of spaces for different uses, activities and experiences... The waterfront park will be enhanced with gardens, seating terrace, a raised beach, flexible lawn and picnic grove, coastal gardens, and a workout space, in addition to the enhanced Bay Trail.”

Special Condition II.B.4 (“Improvements within the Total Public Access Area”) includes a description of the major elements that are to be provided and maintained within the shoreline Public Access Area. Such improvements are required to be permanently maintained by and at the expense of the permittee or its assignee(s) by Special Condition II.B.8 (“Maintenance”).

The Public Access Area is to be developed and come online prior to the occupancy of any structure within Phase 3 – 4 of the Oyster Point Waterfront Project. To minimize disruptions to the Bay Trail and use of the shoreline public access during construction the permittee proposes to install the southern portion of the Bay Trail, between the connection to the parcel to the west and

the East-West connector link (which itself connects to the existing Bay Trail segment along Oyster Point Boulevard) during an initial phase, so as to minimize disruption to overall circulation to and along the shoreline. Special Condition II.B.11 (“Minimizing Construction-Related Closures to Public Access”) is included to allow for review of construction methods selected so that reasonable measures are employed during construction to maintain access to the shoreline, consistent with the approach outlined as part of the application.

b. Bay Trail and Circulation

Bay Plan Public Access Policy No. 10 states, in part, that “[a]ccess to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public throughfare where convenient parking or public transportation may be available.” Within Waterfront Parks, Bay Plan Recreation Policy No. 4(a)(6) states, in part: “Trails that can be used as components of the San Francisco Bay Trail...should be developed in waterfront parks. San Francisco Bay Trail segments should be located near the shoreline unless that alignment would have significant adverse effects on Bay resources.”

The waterfront park will replace the current 8-foot-wide Bay Trail and relatively modest and flat greenery around the existing Bay Trail with a 20-foot-wide Bay Trail, surrounded by topography that intentionally slopes gently up and down along its edge. The new Bay Trail segment is designed to current design standards, and the increased width allows for greater use of the trail and fewer conflicts among pedestrians and cyclists. As described above, the trail is further enhanced by the new amenities provided within the Public Access Area provided by the project, as well as seating, waste receptacles, and other furnishings along the trail.

The project also includes a minimum 20-foot-wide pedestrian and bicycle connection through the office campus (labeled “East-West Link” on Exhibit A), which is essential in providing linkages to the public access network provided to the east of the Oyster Point Peninsula, particularly those developed as part of Phase I of the Oyster Point Waterfront Project. This connection links to the Bay Trail and network of sidewalks along Oyster Point Boulevard.

c. Public Shore Parking and Transportation

Bay Plan Recreation Policy No. 4(a)(7) states, in part: “Bus stops, kiosks and other facilities to accommodate public transit should be provided in waterfront parks to the maximum extent feasible. Public parking should be provided in a manner that does not diminish the park-like character of the site.”

The Oyster Point Peninsula is serviced by public transit and the circulation network described above connects the waterfront park developed by this project to the bus and ferry service available nearby.

The project includes 15 “Public Shore” parking spaces, required by Special Condition II.B.6 (“Public Shore Parking”), distributed between two public surface parking lots located adjacent to or within short walking distance of the waterfront park. These parking spaces will be designated by the Commission’s “Public Shore” parking signs to clearly identify their location for the public, as required by Special Condition II.B.7 (“Public Access Signage, Wayfinding, and Interpretive Elements Plan”). If in the future, the location of the Public Shore parking spaces provided by the project needs to be relocated within the site, Special Condition II.B.6 (“Public Shore Parking”) allows for this modification to be reviewed by staff according to the Plan Review process outlined in Special Condition II.A (“Plan Review and Specific Plans”). Such review would ensure that should parking be relocated within the site, the same overall number of public parking spaces and the same general level of access to the Waterfront Park would be provided.

- d. Ongoing Maintenance, Universal Design, and Cultural Context
- Bay Plan Public Access Policy No. 8 states: “Public access improvements provided as a condition of any approval should be consistent with the project, the culture(s) of the local community, and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife and plant communities, and provide for the public’s safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should provide barrier free access for persons with disabilities, for people of all income levels, and for people of all cultures to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs, including using appropriate languages or culturally-relevant icon-based signage.”

Special Condition II.B.8 (“Maintenance”) establishes that all facilities provided within the Public Access Area are to be maintained by or at the expense of the permittee and/or its assignee(s).

The design of the Public Access Area incorporates universal design features. Special Condition II.B.4 (“Improvements within the Total Public Access Area”) is included to require that all such improvements be designed to ADA standards, and Special Condition II.A (“Plan Review”) provides Commission staff an opportunity to ensure that construction documents include feasible measures to provide barrier-free design of all public access features.

Special Condition II.B.7 (“Public Access Signage, Wayfinding, and Interpretive Elements Plan”) is included to ensure that a robust signage program is developed to promote use of the shoreline by the public. This program shall provide detail on the location, quantity, and design of “Public Shore” and Bay Trail signage, “Public Shore” parking signage, directional and wayfinding signage, and interpretive signage as appropriate. The signage program shall ensure that signage is available in English, Spanish, and other languages as appropriate given

the populations likely to utilize the park. The signage program shall also identify opportunities to provide accessible forms of signage that employ Universal Design features, which could include tactile features, Braille, or other measures. All signage developed under the plan shall be developed in coordination with the other open spaces on the Oyster Point Peninsula to provide a seamless experience for public users of the public shoreline within and outside the boundaries of the project area.

3. Visual Access

Bay Plan Appearance, Design, and Scenic View Policy No. 2 states, in part: “All bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore.” Bay Plan Appearance, Design, and Scenic View Policy No. 4 states, in part: “Structures and facilities that do not take advantage of or visually complement the Bay should be located and designed so as not to impact visually on the Bay and shoreline.”

While introducing taller buildings along the shoreline compared to the existing conditions, the project includes corridors that provide for some shoreline transparency through the site from the nearest public road, Oyster Point Boulevard. Special Condition II.C (“View Corridors”) is included to ensure that those corridors established by the project design are maintained over time and in such a way so as to ensure that visual access to the shoreline is not diminished. The special condition requires the establishment of three view corridors at the following locations: (1) an approximately 10-foot-wide corridor extending from the cul-de-sac of Oyster Point Boulevard along the drive aisle to the shoreline; (2) an approximately 10-foot-wide corridor extending from the intersection of Oyster Point Boulevard and Gull Drive, and extending along Gull Drive to the shoreline; and (3) an approximately 10-foot-wide corridor extending from the intersection of Oyster Point Boulevard and the East-West Link pedestrian path to the shoreline. To achieve the objectives of these view corridors, no structures, landscaping, or trees that would impede the view corridor shall be permitted, except upon a finding that they will have no adverse impact on views to the Bay.

C. Flooding and Sea Level Rise

The Commission finds that the project, as conditioned, is consistent with San Francisco Bay Plan policies related to climate change and sea level rise for the following reasons:

a. Potential Flood Risk

The Commission’s Bay Plan Public Access Policy No. 6 states that “public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.”

In determining the viability of Public Access Area in the event of future sea level rise, the Commission looks to the Bay Plan's Climate Change policies. Bay Plan Climate Change Policy No. 2 states: "When planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end-of-century based on the best scientific data available should be used in the risk assessment. Inundation maps used for the risk assessment should be prepared under the direction of a qualified engineer. The risk assessment should identify all types of potential flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat from proposed flood protection devices."

(1) Risk Assessment

As part of its application, the permittee provided a Sea-Level Rise Risk Assessment Report ("SLR Report") prepared by Moffatt and Nichol and dated November 2022, which includes a sea level rise risk assessment and a discussion of future adaptation measures that might be employed at the project site. The report describes the potential for flood hazards at the project site and resiliency measures incorporated into the project design (e.g., largely raising the grade of the project site to a minimum elevation of +13 feet NAVD88). Consistent with the Commission's Bay Plan policies, it also incorporates the best-available science summarized in the 2018 State of California Sea-Level Rise Guidance ("2018 State Guidance") prepared by the California Ocean Protection Council.

The 2018 State Guidance includes a range of sea level rise projections for use in decision making. On one end of this range, a "low risk aversion scenario" is included for instances where decision-makers can be fairly risk tolerant, in that the project is easily adapted and/or the consequences of failure are low. On the other end of this range, an "extreme risk aversion scenario" is included for projects that have little to no adaptive capacity, would be irreversibly destroyed or significantly costly to relocate/repair, or would have considerable public health, public safety, or environmental impacts should they be impacted by projected sea level rise.

The analysis in this permit, as in the SLR Report prepared by Moffatt and Nichol, relies on the "medium-high risk aversion scenario" in the 2018 State Guidance. According to the 2018 State Guidance, this planning scenario is appropriate to provide "a precautionary protection that can be used for less adaptive, more vulnerable projects or populations that will experience medium to high consequences as a result of underestimating sea level rise." The Commission has frequently analyzed applications for similar projects that

provide significant shoreline public access improvements under the medium-high risk aversion planning scenario. The medium-high risk projections are chosen such that the likelihood that sea level rise will meet or exceed the projections is low (though they may underestimate the potential for extreme sea level rise). The SLR Report assumed a high-emissions scenario, which is a common assumption in the preparation of risk assessments. Based on the projections from the 2018 State Guidance, the analysis anticipates that 1.9 feet of sea level rise will occur in 2050, and that 6.9 feet of sea level rise will occur in 2100.

(2) Project Resiliency Measures

The primary resilience measure incorporated into the design of the project is to raise the grade of the site to an elevation at or above +13 feet NAVD88. Ground floor elevations for the buildings constructed as part of the project would be at or above +16.5 feet NAVD88, and most of the major elements in the waterfront park would be constructed between +13.8 and +16.6 feet NAVD88.

The project site is built up to higher grades in particular at its northern edge, where it is most likely to face wind-generated wave action associated with local storm events in the Bay. This segment of the shoreline is located within a different FEMA flood zone on FEMA's effective Flood Insurance Rate Maps (FIRM) than the more protected portion of the site along the marina, where it is more sheltered from wave action. Thus, the site has two 1% Annual Chance (100-year) Base Flood Elevations (BFE): +14.0 feet NAVD88 on the northern exposed edge and +10.0 feet on the more protected western edge. Corresponding to this level of risk, the elevations of improvements on the northern side of the site are built to a higher grade to enhance their resilience. The Bay Trail is built to an elevation of +16.6 feet NAVD88 on the northern edge, and slopes down to as low as +13.8 feet NAVD88 within the area subject to less flood risk.

The SLR Report finds that the effect of this measure is to address sea level rise and flood hazards that would be anticipated under the selected scenario through 2050 and beyond. The project would be generally resilient to King Tides through the end of the century, and it would not be impacted by Mean Higher High Water tides until after 2100. The report finds that a 1% annual chance storm event could impact the development after 2075, potentially impacting the lower shoreline areas. Under the selected planning scenario, therefore, adaptive measures would not be anticipated to be necessary until after 2075.

One exception to the general design approach of raising the grade of the site to an elevation that will be resilient to 2075 is found within several pockets of planting areas along the shoreline called the "Wetland Terraces." These zones on the waterfront (constituting approximately 22,400 square feet of the overall Public Access Area) grade down to a lower elevation, so that as

sea levels rise they will become increasingly inundated by waters. Plantings selected within these zones are salt-tolerant species that will adapt to such flooding. This design element was selected in part in response to feedback from the Commission’s Design Review Board.

Another exception is where the Bay Trail grades down to connect to the existing Bay Trail segments located on parcels to the East and West of the site. Special Condition II.B.12 (“Bay Trail Connections to Neighboring Parcels”) is included to ensure that these short segments of the trail are modified by the permittee at such time as either of the neighboring parcels are redeveloped should they raise the grade of their portions of the Bay Trail.

With these exceptions, the site is designed to be largely resilient to anticipated flooding prior to 2075. Table 2 below shows projected water levels employing the 2018 State Guidance planning scenario selected for this analysis in the years 2022, 2030, 2050, 2070, and 2100. Given the selected resilience measures, no adaptive actions are anticipated under this scenario prior to 2075, when flooding from extreme storm events have the potential to cause flooding of various features within the Public Access Area.

TABLE 2. RANGE OF SEA LEVEL RISE PROJECTIONS APPLICABLE TO OYSTER POINT

Datum	Projected Elevation for SLR (in feet) by year:				
	–	0.8'	1.9'	3.5'	6.9'
	2022	2030	2050	2070	2100
Base Flood Elevation El. +14.0	14.00	14.8	15.9	17.5	20.9
Base Flood Elevation El. +10.0	10.00	10.8	11.9	13.5	16.9
Stillwater Elevation	10.35	11.2	12.3	13.9	17.3
King Tides	8.27	9.1	10.2	11.8	15.2
Mean Higher High Water	6.73	7.5	8.6	10.2	13.6

In addition to examining risk associated with overtopping of the shoreline from flooding associated with tides and storm surges, the SLR Report examined the potential for flooding at the site from rising groundwater where groundwater levels are impacted by the variations of tides. The report found that, with the risk aversion scenario selected, the public access improvements associated with the project were not anticipated to experience any groundwater-driven flooding until the end of the century. Based on evidence derived from borings and cone penetration tests by a geotechnical engineer, the groundwater level for the project site was typically found to be between depths of about 7 to 17 feet below the existing ground surface, or approximately Elevation 0 to +8 feet NAVD88.

b. Adaptive Management

Bay Plan Climate Change Policy No. 3 states: “To protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects—other than repairs of existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within existing urbanized areas—should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.”

Bay Plan Public Access Policy No. 7 states: “Any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.”

Given the anticipated flooding at the project site before the end of the century under the selected projection, Special Condition II.D (“Flooding and Adaptation”) is included so that necessary planning and implementation will occur to ensure the Public Access Area is adapted and remain viable for public use over time. The special condition requires notification of flooding events and a revised Risk Assessment to be conducted in response to a flooding event that impacts the required Public Access Area (or by December 31, 2050, whichever is earlier). Furthermore, it establishes a “trigger” by which adaptation planning efforts must commence in response to the identified risk as well as an implementation schedule for adaptation measures.

In regard to future adaptation measures that would be required to extend the life of the public access provided by the project, the SLR Report submitted as part of the application outlines several approaches that could be employed at low-lying points along the shoreline: “1) Incorporating a parapet wall along the edge of the trail or project shoreline; 2) Increasing the height of the outer 1’ wide concrete band of the Bay Trail in areas where the trail is close to the water’s edge; or 3) Placing an array of boulders in areas with gardens and other vegetated features to create a barrier.” Though not described in the report, the grade of the site might be again raised, with public access features reinstalled at an elevation where they would not experience flooding.

Depending on the exact design of future adaptive measures, the above options have the potential to largely protect the public access required by Special Condition II.B.1 (“Total Public Access Area”) of this permit, though some area of public access currently might be sacrificed in order to construct a new resilient shoreline edge. Special Condition II.C therefore establishes the planning objective that the selected method shall ensure that any selected adaptive measure shall ensure that the shoreline public access will be roughly equivalent

in terms of overall area and function to that required by this permit under Special Condition II.B (“Public Access”), except those areas functioning as “Wetland Terraces.” If some area of the public access is sacrificed to employ necessary adaptive measures, the permittee would be responsible for providing equivalent public access within another area along the shoreline, for example by repurposing portions of the campus-oriented open space outside the current Public Access Area to provide space for such “retreat.” The overall objective of the special condition is to provide for changes to the shoreline as necessary for adaptation to rising sea levels without sacrificing the overall area and function of the public access that is provided by the design authorized by this permit. Any selected adaptation option will require additional review by or on behalf of the Commission before it is implemented to ensure this objective is achieved, and that the selected approach is otherwise consistent with the law and policies then in effect.

D. Environmental Justice and Social Equity

The Commission finds that the project, as conditioned, is consistent with San Francisco Bay Plan policies related to environmental justice and social equity for the following reasons.

a. Community Profile

Bay Plan Environmental Justice and Social Equity Policy No. 4 states: “If a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the projects is proposed.”

The Commission has developed a Community Vulnerability Mapping Tool to help inform its analysis of how socioeconomic indicators and contamination burdens contribute to a community’s vulnerability. The mapping tool collects information at the level of Census blocks and tracts and can be used by the Commission to help identify certain underrepresented and/or identified vulnerable and/or disadvantaged communities. These communities include those disproportionately affected by environmental pollution and hazards that can lead to negative public health effects or environmental degradation, as well as those with higher concentrations of people with socioeconomic characteristics indicative of a higher degree of social vulnerability. The mapping tool thus helps inform the Commission on how and where community engagement should occur, and what issues may be of relevance in the Commission’s review.

According to the Commission’s Community Vulnerability Mapping Tool, the project is located in an area of “moderate social vulnerability.” The community places within the 70th percentile for the following social indicators: Disabled; People of Color; No High School Degree; Very Low Income. The community is within the highest category of contamination vulnerability, a score calculated at the Census block group level using data compiled by CalEPA’s Office of Environmental Health Hazard Assessment (OEHHA) for use in CalEnviroScreen 3.0. The presence of contaminated lands and water raises health and environmental justice concerns, which worsen with flooding and sea level rise. Transmission of contaminants from flooding or emergent groundwater is not anticipated to be an issue with the project, however, as the site is not anticipated to be exposed to any flooding from groundwater prior to 2100, as discussed in the section on Sea Level Rise and Flooding.

b. Community Outreach and Engagement

Bay Plan Environmental Justice and Social Equity Policy No. 2 states that “addressing issues of environmental justice and social equity should begin as early as possible in the project planning process.” Policy No. 3 states that “[e]quitable, culturally-relevant community outreach and engagement should be conducted by local governments and potentially impacted communities for major projects...in underrepresented and/or identified vulnerable and/or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting process” and that “[e]vidence of how community concerns were addressed should be provided.”

Bay Plan Public Access Policy No. 5 states: “Public access that substantially changes the use or character of the site should be sited, designed, and managed based on meaningful community involvement to create public access that is inclusive and welcoming to all and embraces local multicultural and indigenous history and presence. In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action.”

The application states that approximately 41 public meetings occurred to provide for public outreach between May 2017 and Summer 2021. These included in-person events at an office established near the project site prior to the pandemic, and online meetings in the time since the onset of the COVID-19 pandemic. All meetings were held outside of business hours (starting at 5:30 pm), and were announced through postings at the project site, as well as via email communication for neighbors who provided contact information.

The application states that the aspects of the project were modified in response to community input, resulting in, among other things: the inclusion of a larger wetland area to provide for increase wildlife habitat; modifications to enhance accessibility of public features; and implementing phasing to reduce burdens to

park users. The application states that “[t]he only requests from the community that have not yet been addressed involve requests for additional marina facilities. Because KOP is currently working on a long term solution for the marina, which it will be bringing to BCDC as a separate project. [sic] [The permittee] has not included any additional marina amenities in the [project authorized by this permit], but will incorporate public comments into any proposed future marina concepts that it brings to [the Commission] for review.”

In terms of design of the waterfront park, the application states that: “the entire waterfront park has been designed to be inclusive to the existing public, including a variety of different uses from picnicking to fishing opportunities, to fitness opportunities and extensive walking paths throughout the waterfront park. The waterfront park design has been revised to include a variety of uses including a fitness area, additional paths, and adjacent dining areas to address the Design Review Board’s request to help activate use of the waterfront park.”

As highlighted in the section on Public Access above, Special Condition II.B.7 (“Public Access Signage, Wayfinding, and Interpretive Elements Plan”) is being required as a condition of development to ensure culturally appropriate signage, including signage that will be in at least English and Spanish, but also others that a signage program identifies as appropriate for maximizing public use of the space.

E. Regional Project Database (EcoAtlas Project Tracker)

To better understand the impact of shoreline protection measures and habitat restoration over time, their impact on adjacent and nearby areas, and the regional context for sea level rise adaptation, consistent with Bay Plan policies, including Shoreline Protection Policies Nos. 1(e), 1(f), and 4 and Climate Change Policies Nos. 2, 3, and 6, Special Condition II.E (“Regional Project Database [EcoAtlas Project Tracker]”) is included to require the permittee to contribute information about the project and all relevant plans and monitoring reports to a regional project database (EcoAtlas Project Tracker, ptrack.ecoatlas.org) which has been developed to catalog such information. The entry of project details will be used by the Commission and partner agencies to support regional decision-making and planning, and to better understand the cumulative impacts of projects involving shoreline protection and habitat restoration.

F. Design Review Board

Bay Plan Public Access Policy No. 12 states that Commission’s “Design Review Board should advise the Commission regarding the adequacy of the public access proposed” and that its advisory “Public Access Design Guidelines should be used as a guide to siting and designing public access consistent with a proposed project.” The Board reviewed the project at its meeting on February 10, 2020, where it provided feedback to the permittee and staff on elements of the design which could be strengthened to better utilize the public shoreline. Overall, the Board felt that the design was of high quality and that it provided for a commendable increase in public programming compared to

the existing conditions for the site. Several board members commented on opportunities to enhance activation further, by adding elements that would draw visitors on weekends, or to add workout equipment along the Bay Trail to draw people to the shoreline edge from within the campus. The current design does incorporate elements from this feedback, including a new area dedicated for outdoor fitness equipment. Other members of the Board expressed that the programming fit in well with the overall mix of uses at Oyster Point, specifically those being developed as part of Phase 1, and enhanced this mix by providing additional opportunities for passive recreation. The Board asked that the staff work closely with the permittee to establish the details of the public access parking areas, and this detail has been established in the design approved as part of this permit.

G. Coastal Zone Management Act

The Commission further finds, declares, and certifies that the activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

H. Environmental Review

On March 23, 2011, the City of South San Francisco, acting as lead agency, certified the final Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) for the Oyster Point Specific Plan. On March 5, 2020, the City of South San Francisco Planning Commission issued a resolution making findings and determining that the Oyster Point Redevelopment Phases 2D, 3D and 4D Precise Plans Project is fully within the scope of environmental analysis in the 2011 Environmental Impact Report and that based on the 2020 Environmental Checklist, the 2011 EIR is the appropriate environmental document for the Project and thus would not necessitate the preparation of additional environmental analysis document pursuant to CEQA Guidelines section 15162.

I. Enforcement Program and Civil Penalties

The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions

A. Permit Execution

This permit shall not take effect unless the permittees execute the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. Notice of Completion

The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

C. Permit Assignment

The rights, duties, and obligations contained in this permit are assignable. When the permittees transfer any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittees/transferors and the transferees shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and understand the permit and agree to be bound by the terms and conditions of the permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.

D. Permit Runs with the Land

Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

E. Other Government Approvals

All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittees of any obligations imposed by State or Federal law, either statutory or otherwise.

F. Built Project Must be Consistent with Application

Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.

G. Life of Authorization

Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.

H. Commission Jurisdiction

Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

I. Changes to the Commission's Jurisdiction as a Result of Natural Processes

This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.

J. Violation of Permit May Lead to Permit Revocation

Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation of the permit. The Commission may revoke the permit for such violation after a public hearing held on reasonable notice to the permittees or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittees or their assignees if the permit has been assigned.

K. Should Permit Conditions be Found to be Illegal or Unenforceable

Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittees or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

L. Permission to Conduct Site Visit

The permittees shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

M. Abandonment

If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittees, their assignees or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.

N. Best Management Practices

1. Debris Removal

All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittees, their assignees, or successors in interest, or the owner of the improvements, shall remove such material, at their expense, within ten days after they have been notified by the Executive Director of such placement.

2. Construction Operations

All construction operations shall be performed to prevent construction materials from falling, washing or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittees shall immediately retrieve and remove such material at their expense.

O. In-Kind Repairs and Maintenance

Any in-kind repair and maintenance work authorized herein shall not result in an enlargement of the authorized structural footprint and shall only involve construction materials approved for use in San Francisco Bay. Work shall occur during periods designated to avoid impacts to fish and wildlife. The permittees shall contact Commission staff to confirm current restricted periods for construction.