San Francisco Bay Conservation and Development Commission
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June 10, 2016

**TO:** Commissioners and Alternates

**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
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**SUBJECT:** **Staff Recommendation for Material Amendment No. Eight to BCDC Permit No. 1982.026 for the Design Tech High School**
(For Commission consideration on June 16, 2016)

## Recommendation Summary

The staff recommends approval of BCDC Permit No. 1982.026.08, to Oracle America Inc., Centrum Owners Association and Oracle Corporation for the Design Tech High School Project, which, as conditioned, will authorize the following activities:

(1) Create an approximately 135,890-square-foot portion of a new approximately 209,787-square-foot (4.8-acre) parcel for the school site, and adjust a lot line to accommodate relocated public parking spaces;

(2) Construct an approximately 4,000-square-foot portion of an approximately 34,300-square-foot (footprint), two-story school building with a patio, and an approximately 2,058-square-foot portion of a parking lot and student drop-off area in place of an existing parking lot and landscaping;

(3) Raise an existing levee to as high as approximately 14 feet NAVD 88, and grade a 2.6-acre portion of the 4.8-acre site; and

(4) Construct public access improvements including: an enhanced approximately 1,124-foot-long segment of existing Bay Trail; additional public paths; a plaza; an enhanced Bay Trail entry point; landscaping; exercise nodes; seating areas; three types of gathering spaces; bicycle racks; signage; and other amenities.

The project will result in a net increase of approximately 71,712 square feet of public access areas, of which 29,082 square feet would be permanently guaranteed. The remaining public access areas will consist of the school patio, parking lot and student drop-off area, which would be available for the public's use outside of the school hours.

## Staff Note

Because the project involves a material amendment to an existing permit, the format of the recommendation is different than recommendations for new permits. This recommendation includes language from the existing permit, as well as the changes proposed by the amendment. Language to be deleted from the permit has been ~~struck through~~ and language to be added to the amended permit has been underlined. Language that has neither been ~~struck through~~ nor underlined is language of the existing permit that will remain unchanged with the adoption of Material Amendment No. Eight.

## Staff Recommendation

The staff recommends that the Commission adopt the following resolution:

**I. Authorization**

A. **Authorized Project.** Subject to the conditions stated below, the permittees are granted permission to do the following on the approximately 65.8-acre site adjacent to Belmont Slough formerly occupied by the Marine World, Africa U.S.A. Amusement Park, on Marine World Parkway, east of the U.S. Highway 101, in the City of Redwood City, San Mateo County:

1. **Partially in the Bay and within the 100-foot Shoreline Band**

   a. Create an approximately 135,890-square-foot portion of a new approximately 209,787-square-foot (4.8-acre) parcel from portions of three existing parcels (Lot 7, Parcel 3 and Oracle Parkway) (Material Amendment No. Eight);

~~1.~~ 2. **In the Bay** place and use three structures to provide circulation for the lagoon, which include:

   a. A 20-inch-in-diameter storm drain force main covering 675 square feet;

   b. A 48-inch-in-diameter inlet/outlet covering 225 square feet; and

   c. Twin 48-inch-in-diameter outfalls covering 1,550 square feet.

~~2.~~ 3. **Within the 100-foot Shoreline Band**

a. Excavate approximately 500 cubic yards of sediment from the existing, non-tidal lagoon with disposal at an upland location outside of the Commission's jurisdiction;

b. Place and use approximately 42,000 cubic yards of earth to raise the existing levee to a pre-subsidence level of 10 feet above Mean Sea Level;

c. Provide and use public access improvements, including landscaping, a 5,300-foot-long, 8 eight-foot-wide all-weather surface path (about 40 percent of which is outside the Commission's jurisdiction), picnic areas, an outdoor amphitheater, 30 public parking spaces, etc., in approximately 335,000 square feet (7.7 acres) of public access area (see Exhibit A) as generally shown on Exhibit A and revised by attached Exhibits B and C;

d. Provide and use new public access improvements, including an approximately 13,300-square-foot landscaped area, and 3,700-square-foot pedestrian pathway and jogging trail, as generally shown on attached Exhibit B. Approximately 8,840 square feet of this area which lies outside the Commission's jurisdiction (Amendment No. Four); ~~and~~

e. Install an electrical "H-Structure" within the existing PG&E easement adjacent to the existing electrical tower (Amendment No. Four);

~~f. Provide and use public access improvements including an approximately 44,100-square-foot landscaped area (ornamental and native landscaping), an approximately 1,264-foot-long, eight-foot-wide, all-weather surface path, four benches and garbage receptacles and public access signs, and approximately 11,560 square feet of asphalt paving for a parking lot, 2,950 square feet for a basketball court and 5,530 square feet for a soccer field (Amendment No. Five);~~

f. Modify the southern boundary of Lot 8 to accommodate relocated public parking spaces (Material Amendment No. Eight);

g. Demolish an existing parking lot, remove 49,833 square feet of landscaped area, remove an additional 13,125 square feet of ice plant, and remove three exercise nodes (Material Amendment No. Eight);

h. Raise and maintain in-kind the elevation of an existing levee to as high as approximately 14 feet NAVD 88, and grade an approximately 2.67-acre portion of the 4.8-acre site (Material Amendment No. Eight);

i. Construct, use and maintain in-kind an approximately 4,000-square-foot portion of an approximately 34,300-square-foot (footprint), approximately 31-to-38-foot-tall, two-story school building, and approximately 2,900 square feet of patio area with tables, adjacent to the building (Material Amendment No. Eight);

j. Install, use and maintain in-kind approximately 63,781 square feet of landscaped areas, including 2,165 square feet of bioretention areas (Material Amendment No. Eight);

k. Install, use and maintain in-kind a portion of a storm water management system and other utilities associated with the school facility (Material Amendment No. Eight);

l. Construct, use and maintain in-kind an approximately 2,058-square-foot portion of an approximately 20,787-square-foot new 35-space parking lot and student drop-off area, with associated lighting, and install a bike locker (Material Amendment No. Eight);

m. Construct, use and maintain in-kind an approximately 1,124-foot-long, 10-foot-wide asphalt public path with a two-foot-wide decomposed granite shoulder and a contiguous post-rope fence to enhance an existing section of the Bay Trail located on the levee (Material Amendment No. Eight); and

n. Construct, use and maintain in-kind additional public access improvements including: a total of approximately 719 linear feet of additional new or improved paved public paths, ranging from 4.5 to 8 feet wide; an approximately 1,152-square-foot plaza with seat walls; an enhanced 2,356-square-foot Bay Trail entry point to the east of the school; three exercise nodes; two seating areas; three other gathering spaces for education, contemplation, and picnicking; and other amenities (including benches, tables, decorative boulders, trash receptacles, drinking fountains), signage, bicycle racks and a portion of a relocated public parking space (Material Amendment No. Eight).

B. **Application Dates.** This amended authority is generally pursuant to and limited by the application dated January 21, 1983, including all accompanying and subsequent amendments, exhibits, and correspondence thereto, your letters of October 1, 1984 and November 9, 1984, requesting Amendment No. One, your letters of August 4, 1987, September 2, 1987, and September 16, 1987, requesting Amendment No. Three, your letter and accompanying exhibits dated October 1, 1997, requesting Amendment No. Four, your letter dated April 24, 1998, requesting Amendment No. Five, and the plan entitled "Conceptual Mitigation Plan, Oracle Shores Project," dated January 1997, and received in BCDC offices January 9, 1999, which describes the activities and uses

proposed by the permittees in Amendment No. Six, and your letter dated April 6, 2016, requesting Material Amendment No. Eight, including all subsequently submitted exhibits and correspondence, but subject to the modifications required by conditions herein.

C. **Deadlines for Commencing and Completing Authorized Work.** Work authorized through Amendment No. Four has already been completed. Work authorized by Amendment Nos. Five and Six ~~herein must~~ was to commence by December 31, 1999, or ~~this~~ the amended permit ~~will~~ would lapse and become null and void. Such work ~~must also~~ was to be diligently pursued to completion and ~~must be~~ completed within two years of commencement and ~~must~~ be completed by December 31, 2001, unless an extension of time ~~is~~ was granted by a further amendment of this amended permit. Work authorized in Material Amendment No. Eight must commence by July 1, 2018, and must be diligently pursued to completion by July 1, 2020 unless an extension of time is granted by further amendment of this amended permit.

D. **Original Project Summary Through Amendment No. Six**. The original project authorized ~~herein will~~ resulted in the creation of a 100-foot-wide shoreline park along approximately 3,200 feet of shoreline along Belmont Slough. A continuous eight-foot-wide asphalt path ~~will~~ was ~~be~~ constructed along the perimeter of the project site. The path ~~will~~ connects public access areas totaling about 557,000 square feet within and outside of the 100-foot shoreline band (12.8 acres) which ~~will be~~ have been developed and landscaped partially to provide natural transitional habitat between the marshes of Belmont Slough and the more formal landscaping of the office park, and partially to provide areas for public activities including picnicking and jogging. In addition, the project ~~will~~ resulted in 2,450 square feet of fill in the form of outfall pipes to provide circulation within the lagoon. Amendment No. Six authorized~~s~~ the creation of 0.7 acres of seasonal wetlands and 0.8 acres of tidal wetlands as mitigation for wetland impacts outside of the Commission's jurisdiction.

E. **Material Amendment No. Eight Project Summary**. The project authorized by Material Amendment No. Eight will result in the construction of a school building, parking lot, student drop-off area and associated outdoors spaces within the existing shoreline park along the Belmont Slough shoreline. Material Amendment No. Eight supersedes Amendment No. Five, which authorized paving for a parking lot, basketball court and a soccer field, and associated public access improvements. The project will provide an additional 71,712 square feet of public access areas within and outside of the 100-foot shoreline band, and will result in enhancements of certain public access improvements that were required by Material Amendment No. Five. The project will also result in the narrowing of the continuous eight-foot-wide path, required by the Original Authorization, to approximately five-foot-six-inch-wide along the school project site, immediately adjacent to Oracle Parkway.

## II. Special Conditions

The amended 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. **Plan Review**. No construction or use whatsoever shall be made of any facility authorized herein until final precise site, engineering, and landscaping plans and any other relevant criteria, specifications, and plan information for that portion of the work have been submitted to, reviewed, and approved in writing by or on behalf of the Commission.

   Engineering, grading, and landscaping plans submitted for review shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. Approval or disapproval shall be based upon (a) completeness of the plans in showing the features required above and any other criteria required by this amended permit; (b) consistency of the plan's criteria and information with the terms and conditions of this amended permit; and (c) maximizing the quality of the marsh areas to be retained and the amount and quality of the public access to and along the shoreline and in and through the project. In each instance, plan review shall be completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed, and signified by a letter, specifically referring to the submitted plans, that indicates whether the plans have been approved or disapproved. If plans are disapproved by or on behalf of the Commission, the letter signifying disapproval shall state the reasons for such disapproval.

2. **Changes to Approved Plans**. After final plans have been approved pursuant to Special Condition II-A-1, no changes shall be made to such approved plans without first obtaining written approval of the proposed changes by or on behalf of the Commission. Approval or disapproval shall be made within 45 days after the proposed changes in plans have been submitted for approval and shall be based on a finding that the changes are authorized by this amended permit and would not detrimentally affect public access, landscaping, open space, open water, or other public benefits.

3. **Conformity with Approved Plans.** All leases, contract specifications, and all structures and improvements at the project site shall conform to the final plans approved pursuant to Special Condition II-A-1. No structures shall be placed nor any improvement undertaken that is not clearly shown and indicated on the approved final plans. After construction, no noticeable changes shall be made, nor shall park, open space, open water, landscaping, or public access areas be altered without first obtaining written approval by or on behalf of the Commission pursuant to Special Condition II-A-2.

B. **Construction**. The improvements authorized by Amendment No. Four herein shall be built generally in conformance with the plan entitled "Oracle Substation," prepared by Brian Kangas Foulk, et al., as revised through November 15, 1996. ~~The improvements authorized and required by Amendment No. Five shall be built in conformance with the plans entitled "Soccer Field, Basketball Court and Parking Lot Construction, City of Redwood City," Sheets C1-C6, E1-E2, L1-L3 and I1-I2, dated September 4, 1998, as revised through October 14, 1998, received on December 28, 1998, and prepared by Brian Kangas Foulk. No noticeable changes to the design of the project shall be made without the prior written approval of the BCDC staff.~~ The improvements authorized by Material Amendment No. Eight shall be built generally in conformance with the plans entitled "Oracle Educational Facility, 275 Oracle Parkway, Redwood City, CA 94065," dated and received on May 31, 2016, prepared by DES Architects and Engineers, with the exception of sheets C5.1 and L1.02A, which shall be superseded by revised sheets C5.1 and L1.02A received on June 7, 2016. No further plan review shall be required for the project authorized and the special conditions required by Material Amendment No. Eight, with the exception of the content and graphic design of interpretive signage. Plan review of the interpretive signage shall be completed prior to installation of such signage. No substantial changes shall be made to the approved plans without prior review and written approval by the staff on behalf of the Commission.

C. **Final Subdivision Map.** The permittees shall submit a final parcel map, approved by the City of Redwood City, generally in conformance with the tentative subdivision map, entitled "C1.0 Intended Mapping," dated and received June 9, 2016, and prepared by BKF Engineers/Surveyors/Planners and DES Architects and Engineers.

~~C.~~ D. **Public Access**

1. **Original Public Access Area.** Prior to the Commencement of any construction originally authorized and amended herein, the permittees shall, by instrument or instruments acceptable to counsel by BCDC, dedicate to a public agency or otherwise permanently guarantee rights for the public for access, walking, sitting, viewing, fishing, picnicking, and other related purposes to the continuous public access area as shown in Exhibit A.

2. **New Public Access Area-Amendment No. Four.** By May 1, 1997, the permittees shall, by instrument or instruments acceptable to the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the new 17,000-square-foot public access areas and remove the approximately 6,700-square-foot area from the existing public access dedication as shown and revised on Exhibit B and authorized by Amendment No. Four.

~~3. **New Public Access Area-Amendment No. Five.** By April 1, 1999, the permittees shall, by instrument or instruments acceptable to counsel of BCDC, dedicate to a public agency or otherwise permanently guarantee rights for the public for access, walking, sitting, viewing, fishing, picnicking~~

~~and other related purposes to the new approximately 50,212-square-foot-area public access areas and shall remove the approximately 28,681-square-foot area from the existing public access dedication as shown on Exhibits C and D and authorized by Amendment No. Five.~~

3. **New Public Access Area-Material Amendment No. Eight.** Prior to occupancy of the school building authorized by Material Amendment No. Eight, the permittees 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 for access, walking, bicycling, sitting, viewing, picnicking, and related purposes, to the following areas: 1) the public access areas originally required in Amendment No. Five, as shown on Exhibit C and D; and 2) the new 29,082 square feet of public access areas, as shown on Exhibit E. The permittees shall also remove approximately 1,100 square feet of area from the existing public access dedication that was originally required by Amendment No. Five, as shown on Exhibit E, and remove an approximately 6,520 square feet of area from the existing public access dedication that overlaps with dedicated public access required in BCDC Permit No. M1986.009.01. If the permittees wish to use the public access areas for other than public access purposes, they must obtain prior written approval by or on behalf of the Commission.

4. **Instrument.** 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 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 and labels the Mean High Tide Line, or a line five feet above Mean Sea Level in marshland, the property being restricted for public access, the legal description of the 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. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following:

   a. Sufficiency of the instrument 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 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 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.

5. **Recordation of the Instrument.** Within 30 days after approval of the instrument, the permittees shall record the instrument and shall provide evidence of recording to the Commission. No changes shall be made to the instrument after approval without the express written consent by or on behalf of the Commission.

6. **Original Public Access Improvements.** The public access improvements described below shall be completed in phases as described in Special Condition II-B. The public access improvements shall include at least the following:

   a. A continuous, eight-foot-wide asphalt bicycle/pedestrian path around the entire approximately 5,300-foot-long Bay perimeter of the project site (A portion of this eight-foot-wide path will be diminished to a five-foot-six-inch-wide concrete sidewalk, along the school site immediately adjacent to Oracle Parkway, as required by Material Amendment No. Eight; (see Exhibits A and E);

   b. Two recreation areas within the public access area suitable for picnicking, sitting, Frisbee throwing, etc. Each of the recreation areas shall include at least one picnic table, a lawn area suitable for a variety of activities, at least two benches and two trash containers, and landscaping (see Exhibit A);

   c. Landscaping of the remaining portions of the public access area, primarily with native or native-like shrubs, trees, and groundcovers, to provide an attractive and ecologically valuable transition from the Belmont Slough marshes to the proposed future development;

   d. At least four permanently anchored benches at locations along the public access path approved pursuant to Special Condition II-A-1;

   e. Five public access signs of a design, size, and at locations approved by or on behalf of the Commission at the Marine World Parkway entrances to the public access area and at each of the three proposed public parking areas;

   f. Two public restrooms; and

   g. A total of thirty public parking spaces located as follows: (1) twenty at the western entrance to the public access area, immediately adjacent to Marine World Parkway (see Exhibit A); (2) five in the parking structure near the outdoor amphitheater (see Exhibit A); and (3) five near the southeastern corner of the internal lagoon with views of the Bay (see Exhibit A).

7. **Phasing of the Original Public Access Improvements.** The original public access improvements may be completed in segments in conjunction with the phased development of the executive park. The improvements will ultimately include an 18-station exercise course located on an eight-foot-wide permanent path. The public access improvements to be completed with each phase of development shall be completed prior to the use of the facilities constructed during that phase of development, and in no case later than the following schedule (Amendment No. Two):

   a. Phase IA public access improvement shall be completed no later than January 1, 1991, and shall consist of all of the public access improvements along the southerly western and eastern property boundaries and the off-site levee improvements north and west of the property boundary as shown in Exhibit A, including one public restroom, picnic tables, five barbecues, six trash receptacles, five public benches and one drinking fountain. The public access area will be served by 41 parking spaces. Access will be provided by way of 3,290 lineal feet of eight-foot-wide permanent walking path linking five exercise stations. The associated landscaping and irrigation will be provided within the phase boundaries. In addition, levee mounding and path grading will be complete for all future phases providing a complete loop around the project site. This will yield 2,360 lineal feet of graded dirt access path which is to be paved in future phases.

   b. Phase IB public access improvements shall be completed no later than January 1, 1991, and shall consist of all of the public access improvements along the northerly, western and eastern property boundaries as shown in Exhibit A, including one public restroom, six picnic tables, four barbeques, four trash receptacles, two public benches, and one drinking fountain. The public access area will be served by ten new parking spaces. Access will be improved by paving 2,110 lineal feet of eight-foot-wide permanent walking path linking three additional exercise stations. The associated landscaping and irrigation will be provided within the phase boundaries. In addition, an open-air amphitheater and stage will be constructed in the northwest corner of the site; and

   c. Phase II public access improvements shall be completed no later than January 1, 1993, and shall consist of all of the public access improvements along the northwesterly property boundaries as shown on Exhibit A, including two trash receptacles and three public benches. The public access area will be served by 14 new parking spaces. Access will be improved by paving of 2,370 lineal feet of eight-foot-wide permanent walking path linking ten additional exercise stations (A portion of this eight-foot-wide path will be diminished to a five-foot-six-inch-wide

concrete sidewalk, along the school site immediately adjacent to Oracle Parkway, as required by Amendment No. Eight). The associated landscaping and irrigation will be provided within the phase boundaries.

~~7.~~ 8. ~~**New**~~ **Public Access Improvements-Amendment No. Four.** Prior to the use of any structure authorized by Amendment No. Four herein, the permittees shall install the following improvements, as generally shown on attached Exhibit B:

a. A 3,700-square-foot segment of an eight-foot-wide-pedestrian pathway and two-foot-wide decomposed granite jogging path along the shoreline and connecting to the existing pedestrian pathway on either side; and

b. Irrigated landscaping over the remainder of the approximately 17,000-square-foot public access area.

Such improvements shall substantially conform to the plans entitled "Oracle Power Substation," prepared by Amphion Professional Design Services, as revised through November 15, 1996.

~~8. **New Public Access Improvements-Amendment No. Five.** Prior to the use of any structure authorized by Amendment No. Five herein, the permittees shall install the following as generally shown on the plans entitled "Soccer Field, Basketball Court and Parking Lot Construction, City of Redwood City," Sheets C1-C6, E1-E2, L1-L3 and L1-L2, dated September 4, 1998, revised through October 14, 1998, received on December 28, 1998, and prepared by Brian Kangas Foulk:~~

~~a. Approximately 28,100 square feet of irrigated landscaping inland of the pathway;~~

~~b. Approximately 16,000 square feet of native landscaping outboard of the pathway including the removal and disposal of non-native plants such as ice plant;~~

~~c. An eight-foot-wide 1,264-foot-long, paved pedestrian pathway with a two-foot-wide decomposed granite jogging path;~~

~~d. Four benches and garbage receptacles; and~~

~~e. Fourteen public access parking spaces, four public access signs, and four public parking signs.~~

9. **Public Access Improvements-Material Amendment No. Eight.** Prior to the use of any structure authorized by Amendment No. Eight herein, the permittees shall install the following improvements, as generally shown in the plans entitled "Oracle Educational Facility, 275 Oracle Parkway, Redwood City, CA 94065," dated and received on May 31, 2016, and prepared by DES Architects and Engineers, with the exception of sheets C5.1 and L1.02A, which shall be superseded by revised sheets C5.1 and L1.02A received on

June 7, 2016. The signage shall be installed, as generally shown on the sheet entitled, "L16. BCDC Signage Plan," dated and received June 10, 2016, and prepared by DES Architects and Engineers:

a. An improved approximately 1,124-foot-long, 10-foot-wide asphalt public path with a two-foot-wide decomposed granite shoulder and an adjacent post rope fence;

b. A total of approximately 993 linear feet of new or improved public paths/sidewalks, ranging from four feet six inches to eight feet wide, and three Bay Trail entry points from the sidewalk on Oracle Parkway;

c. An approximately 1,152-square-foot plaza area, two seating areas, an education node, a contemplative node, and a picnic node, which include a minimum of 11 wooden benches with backs, 3 sculptural benches, three tables, two binoculars, and twenty-seven decorative boulders;

d. Three improved exercise nodes that include a minimum of eight exercise units;

e. Approximately 71,130 of landscaping;

f. A minimum of six wayfinding signs, three interpretive signs, two public shore parking signs, and five signs indicating public hours of use for the patio, parking lot and student drop-off area;

g. Two drinking fountains and five trash receptacles;

h. Eleven bicycle racks;

i. Fourteen relocated public parking spaces;

j. Basketball court striping and hoops within the parking lot. The hoops may be temporarily removed from the parking lot to allow for other uses, consistent with Special Condition II.C.3, and shall be replaced immediately when other uses are no longer in place; and

k. The approximately 43,730-square-foot area of the school patio, parking lot and student drop-off area, as shown on Exhibit E, shall be made available to the public from 5:00 pm to sunset on weekdays, and from sunrise to sunset on weekends and holidays, for uses such as recreation, sports, markets and other open-air events.

The approximate section of Bay Trail to be improved and the fourteen public parking spaces to be relocated were originally required in Amendment No. Five. A portion of the eight-foot-wide asphalt path bicycle/pedestrian path required in the Original Authorization (Special Condition II.7.a) will be narrowed to five feet six inches wide. The three exercise nodes to be improved were originally required in Amendment No. Two.

~~9.~~ 10. **Maintenance.** All areas and improvements required by Special Condition II-C including landscaping, signs, and public paths, shall be permanently maintained by, and at the expense of, the permittees, any assignees, lessees, and sublessees. Maintenance shall include, but is not limited to, repairs to all path surfaces;~~,~~ replacement of any plant material that dies or becomes unkempt;~~,~~ repairs or replacement as needed of any public access amenities such as signs, benches, drinking fountains, and trash containers; removal of flood water and repairs to improvements damaged by flooding;~~,~~ periodic cleanup of litter and other materials;~~,~~ and assuring that public access signs remain in place and visible. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.

11. **Public Access and Wildlife Compatibility.** In the event that the post-rope fence, authorized by Amendment No. Eight herein, is not sufficient to deter people and pets from entering the marsh, the permittees shall coordinate with the Commission staff to implement additional design measures to prevent disturbance of the marsh, such as signage, additional planting, or other features to improve public access and wildlife compatibility.

12. **Reasonable Rules and Restrictions.** The permittees may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions 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 public access areas, and would tend to correct a specific problem that the permittees have both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

~~10. **Phasing of the Original Public Access Improvements.** The original public access improvements may be completed in segments in conjunction with the phased development of the executive park. The improvements will ultimately include an 18-station exercise course located on an eight-foot-wide permanent path. The public access improvements to be completed with each phase of development shall be completed prior to the use of the facilities constructed during that phase of development, and in no case later than the following schedule:~~

~~a. Phase IA public access improvement shall be completed no later than January 1, 1991, and shall consist of all of the public access improvements along the southerly western and eastern property boundaries and the off-site levee improvements north and west of the property boundary as shown in Exhibit A, including one public restroom, picnic tables, five barbecues, six trash receptacles, five public benches and one drinking fountain. The public access area will be served by 41~~

~~parking spaces. Access will be provided by way of 3,290 lineal feet of eight-foot-wide permanent walking path linking five exercise stations. The associated landscaping and irrigation will be provided within the phase boundaries. In addition, levee mounding and path grading will be complete for all future phases providing a complete loop around the project site. This will yield 2,360 lineal feet of graded dirt access path which is to be paved in future phases.~~

~~b. Phase IB public access improvements shall be completed no later than January 1, 1991, and shall consist of all of the public access improvements along the northerly, western and eastern property boundaries as shown in Exhibit A, including one public restroom, six picnic tables, four barbeques, four trash receptacles, two public benches, and one drinking fountain. The public access area will be served by ten new parking spaces. Access will be improved by paving 2,110 lineal feet of eight-foot-wide permanent walking path linking three additional exercise stations. The associated landscaping and irrigation will be provided within the phase boundaries. In addition, an open-air amphitheater and stage will be constructed in the northwest corner of the site; and~~

~~c. Phase II public access improvements shall be completed no later than January 1, 1993, and shall consist of all of the public access improvements along the northwesterly property boundaries as shown on Exhibit A, including two trash receptacles and three public benches. The public access area will be served by 14 new parking spaces. Access will be improved by paving of 2,370 lineal feet of eight-foot-wide permanent walking path linking ten additional exercise stations. The associated landscaping and irrigation will be provided within the phase boundaries.~~

E. **Adaptation to Future Flooding.** The permittees shall inform the Commission staff in writing of flooding of public access areas required by Material Amendment No. Eight immediately following each flood occurrence. At such time as the public access areas become regularly inundated ("regularly" is defined as one day per month for three (3) consecutive months in any two (2) years within a five (5) year period) with flood waters due to storms or sea level rise, the permittees shall develop and implement strategies to be approved by or on behalf of the Commission, to protect the required public access areas and improvements from flooding and/or sea level rise. In the event that the strategies result in a significant visual or physical impact at the public access areas, in that they significantly decrease the public access areas or significantly impact the public's ability to use such areas and view the Bay, the permittees shall coordinate with the Commission staff to develop and implement an alternative strategy in an effort consistent with the purpose of the public access areas and improvements required in Material Amendment No. Eight, and shall obtain the necessary authorization by or on behalf of the Commission.

~~D.~~ F. **Marsh Restoration Work and Plans.** Prior to the commencement of any work at any location pursuant to this authorization, the permittees shall submit a marsh restoration plan and program, generally in accord with the plan entitled "Conceptual Mitigation Plan, Oracle Shores Project," dated January 1997 and prepared by Wetlands Research Associates, to be approved by or on behalf of the Commission pursuant to Special Condition II-A, for the restoration and enhancement of 0.8 acres of tidal marshland and 0.7 acres of seasonal marsh and adjoining transitional and upland habitat. The plan and program shall contain the following:

1. **Site Conditions and Modifications.** A topographic map of the site at one-foot contour intervals and a topographic map showing the proposed modifications. All elevations shall be relative to National Geodetic Vertical Datum (NGVD). The map shall include typical cross-sections showing proposed elevation of the marsh plain, any channels and any high spots. The map shall show: (1) figures for the ratios of typical horizontal to vertical slopes for existing and proposed marsh surface, channels, and sloughs; (2) proposed plant species along the cross-sections according to their expected zone of growth; (3) the elevation of adjacent surrounding properties; and (4) figures for the estimated tidal range related to Mean Higher High Water, Mean High Water, Mean Lower Low Water, Mean Sea Level, the maximum predicted tide, and the 100-year tide.
2. **Soil Information.** The program shall include a report identifying the type of soils found at the site and the soil type of any fill to be imported to the site. Information shall be provided on the quantitative soil measurements of soil texture and dry density for both existing and imported soils. In addition, for imported soils only, information shall be provided on the salinity, pH, and organic content.
3. **Planting and Seeding Plan.** The restoration plan shall include a list of the vegetation proposed to be planted, and a planting and maintenance plan. Such plans shall include a program for eliminating existing exotic vegetation and preventing the establishment of exotic vegetation at the site.
4. **Schedule.** The program shall include a schedule indicating when excavation, fill, and grading will occur, the time to be allowed for settlement, and the time when planting will occur.
5. **Protecting Adjoining Marshlands.** The program shall include provisions for minimizing the disturbance of adjoining tidal wetlands, as detailed on page 13 of the Conceptual Mitigation Plan, and include flagging wetland areas, placing siltation fences along the edge of the existing wetland, excavating only during periods of low high tides to eliminate siltation in existing wetlands, and having a wetland biologist on site during the excavation of the mitigation site to assure that appropriate wetland protective measures are in place.

6. **Monitoring.** Every year, starting November 1 of the year following project completion, for a five-year period, or until those portions of the restoration site subject to tidal action are approximately 80% vegetated, whichever occurs first, the permittees shall report to the Commission on the effects of the project in restoring tidal marsh and transitional habitat at the restoration site The report shall include measuring sedimentation rates, percentage of the site revegetated, plant survival, approximately percentage representation of different plant species, and a qualitative assessment of plant growth rates for the tidal restoration area, including adjacent transitional and upland habitats. Undesirable exotic plant species such as pepperweed (*Lepedium latifolium*), *Spartina alterniflora*, broom, or star thistle shall be reasonably controlled during the five year monitoring period. Should adverse conditions be identified during the five year monitoring period, the permittees shall take corrective action as specified by or on behalf of the Commission (Amendment No. Six).

~~E.~~ G. **Removal of Excavated Material**. All excavated material shall be removed from the project site for proper disposal outside of the Commission's jurisdiction, or used within BCDC's jurisdiction for a use specifically authorized by a BCDC permit. Excavated soil materials may be temporarily stored at other locations within the Commission's jurisdiction, provided measures are employed to assure that material does not wash or erode into the surrounding marsh or waterways. No excavated material shall be permanently stored at any such temporary sites (Amendment No. Six).

~~F.~~ H. **Marsh and Tideland Dedication**. Prior to the commencement of any work authorized and amended herein, the permittees shall, by instrument or instruments acceptable to counsel for BCDC and approved as provided in Special Condition II-B-2, guarantee and restrict for open space to remain unfilled and undeveloped, all of the site bayward of the mean high tide line, except that area reserved for the outfall authorized in Section I-A-1 of this amended permit.

~~G.~~ I. **Debris**. All construction debris (as well as existing debris within the open space and public access areas) shall be removed to a 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 shall remove such material at its expense within ten days after it has been notified by the Executive Director of such placement.

~~H.~~ J. **Construction Operations**. All construction operations shall be performed to prevent construction materials from falling 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 its expense.

~~I.~~ K. **Marsh Protection**. The work authorized by this amended permit shall be performed in a manner that will prevent any significant adverse impact on any tidal marsh or other sensitive wetland resources. If any unforeseen adverse impacts occur to any such areas as a result of the activities authorized herein, the permittees shall restore the area to its

previous condition, including returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, the permittees shall seed all disturbed areas with appropriate marsh vegetation.

~~J.~~ L. **Stormwater Runoff and Lagoon Discharge**. No waters shall be discharged to the Bay from the project site, including stormwater runoff, either during construction or after development of the site, unless such waters are discharged pursuant to and in compliance with an order of the Regional Water Quality Control Board, San Francisco Bay Region, or in a manner, approved by or on behalf of the Commission pursuant to Special Condition II-A, to assure that there will be no adverse impact to water quality, marsh vegetation, or fish and wildlife from petroleum products or sediment. Any plans submitted pursuant to this condition shall be submitted separately and be clearly identified as plans for treating stormwater runoff.

~~K.~~ M. **Assignment**. The permittees may make a full or partial assignment of the rights and/or duties under this amended permit to a property owners' association or another assignee, provided that the assignee is acceptable to the Commission. The assignment shall be made in writing and clearly indicate which portion or portions are assigned and which portion or portions remain unassigned. Any assignee shall sign a written statement to the effect that he or she has read and understands the conditions of this amended permit, and agrees to be bound by all terms and conditions hereof.

~~L.~~ N. **Permit Recording**. The permittees shall record this amended permit or a notice referring to this amended permit with San Mateo County within 30 days after execution of this amended permit. Evidence of the recording shall be submitted to the Commission.

~~M.~~ O. **Notice to Contractor**. The permittees shall provide a copy of this amended permit to any contractor or person working in concert with the permittees to carry out the activities authorized herein and shall point out the special conditions contained herein.

P. **Certification of Contractor Review.** Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.

**III. Findings and Declarations**

This amended 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*, the Commission's Amended Management Program for San Francisco Bay, and the California Environmental Quality Act for the following reasons:

A. **Use.** San Francisco Bay Plan Map No. 8 does not designate the project site for any priority use. However, a Plan Note for the Redwood Shores area states: "Provide continuous public access to Bay and to Belmont, Steinberger, Smith, and Corkscrew Sloughs; include paths, beaches, small parks, and wildlife areas." The authorized project,

as conditioned and amended herein, including the phases authorized in Amendment No. Two, provides for various public access improvements, including paths, wildlife areas, and two small parks in all of the areas within the Commission's jurisdiction. Therefore, the proposed use of the site as an executive office park with hotel facilities is consistent with the use requirements of the Bay Plan.

B. **Fill.** The fill authorized by this amended permit for construction of three outfall structures is the minimum fill necessary for the authorized use and, pursuant to Special Condition II-L ~~C~~, will not have an adverse impact on the quality of Bay waters or marshes.

C. **Public Access.**

1. **Original Authorization Through Amendment No. Three.** Once the levees needed to protect the site from flooding have been constructed, all of the project site within the Commission's jurisdiction, approximately 335,000 square feet will be developed for public access. However, complete development of the public access improvements will take place over a 10-year period, a situation which may discourage some potential users of the public access from making use of the shoreline. As conditioned herein, this amended permit requires that a temporary public access path be provided along the entire shoreline prior to the completion of any of the office, parking, or hotel facilities. Also, this amended permit requires that final development of the public access area precede completion of adjacent buildings. These two conditions of the amended permit assure that the project will open up the shoreline for public use as soon as possible, and that final public access improvements shall be completed in a Two. Amendment No. Three allows a delay in final installation of landscaping for Phase IA in order to comply with water rationing regulations adopted in response to limited water conditions during the drought year of 1988. Consequently, the Commission finds that maximum feasible public access consistent with the project will be provided.

2. **Amendment No. Four.** The project authorized by Amendment No. Four herein will provide for the improvement and use of an area outside of the Commission's area for non-public access purposes that was previously dedicated and improved for public access as part of the original permit, and its replacement with a new, significantly larger area adjacent to the shoreline, including a new segment of a ten-foot-wide shoreline trail. As such, the project authorized by Amendment No. Four will improve on the previously required public access, thus providing the maximum feasible public access consistent with the project.

3. **Amendment No. Five.** Amendment No. Five has been removed from this amended permit and will be superseded by Amendment No. Eight. The project previously authorized by Amendment No. Five ~~herein will~~ provided for the improvement and use of an approximately 50,212-square-foot public access area adjacent to Belmont Slough including a ten-foot-wide shoreline trail, native and ornamental landscaping, and public access parking. This public access will be provided to replace the

approximately 28,681 square feet temporary public access the permittees provided and dedicated along Oracle Parkway. As such, the project previously authorized by Amendment No. Five ~~will~~ resulted in a net increase in public access along the Bay shoreline~~. Thus~~ and provided~~ing~~ the maximum feasible public access consistent with the project.

D. **Marsh Restoration and Restriction of Tidelands.** Special Conditions II.F~~D~~ and II.G~~E~~ are included to protect existing wetland vegetation and are intended to assure that the activities associated with marsh restoration are carried out in such a way as to minimize potential impacts on existing wetland resources, which is necessary for the project to be consistent with the Bay Plan policies on Fish and Wildlife and Marshes and Mudflats. The Plan Review and Marsh Restoration conditions are necessary to ensure that the project is appropriately designed. Monitoring has been required so that the progress of the restoration can be assessed and so that information will be available if corrective actions are needed to speed marsh restoration (Amendment No. Six).

Pursuant to Special Condition II.H ~~C~~, approval of the project will assure that all tidally covered lands owned by the permittees, except the tidelands where the three outfall structures authorized herein will be located, will permanently remain as open space for wildlife habitat. Preservation of these areas as open space assures that one of the major features of the project site likely to attract use of the public access area, the tidal marsh, is protected.

E. **Material Amendment No. Eight.** Material Amendment No. Eight authorizes the construction of a school building, parking lot, student drop-off area and associated outdoor spaces, partially within the Commission's 100-foot shoreline band jurisdiction, and supersedes Amendment No. Five, which previously authorized the construction of paving for a parking lot, basketball court and soccer field, and associated public access improvements, and which has been removed from this amended permit.

a. **Public Access.** Section 66602 of the McAteer-Petris Act states, in part: "…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." In addition, the Bay Plan Public Access Policy 1 states, in part, "a proposed fill project should increase public access to the Bay to the maximum extent feasible…." Policy 2 states, in part, "…maximum feasible public access to and along the waterfront…should be provided in and through every new development in the Bay or on the shoreline, whether it be for housing, industry…." Policy 4 states, in part, "public access should be sited, designed and managed to prevent significant adverse effects on wildlife. To the extent necessary to understand the potential effects of public access on wildlife, information on the species and habitats of a proposed project site should be provided, and the likely human use of the access area analyzed." Policy 7 states, in part, "public access improvements…should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for persons with disabilities to the maximum feasible extent, should include an ongoing maintenance program, and

should be identified with appropriate signs." Policy 9 states, "access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat." Policy 12 states, "the Public Access Design Guidelines should be used as a guide to siting and designing public access consistent with a proposed project. The Design Review Board should advise the Commission regarding the adequacy of the public access proposed."

Existing public access areas at the site are required by BCDC Permit No. 1986.009.01 and BCDC Permit No. 1982.026.06 (Exhibit E). BCDC Permit No. 1986.009.01 requires dedicated public access on top of the levee, which runs along the northern boundary of the site. The existing configuration of the public access area at the school site was specifically required in Amendment No. Five of BCDC Permit No. 1982.026, which authorized the construction of a parking lot, basketball court, and soccer field at the same site. However, only the parking lot was built. A 10-foot-wide segment of Bay Trail path exists on top of the existing levee, and three exercise nodes are located behind it. These existing improvements are part of a larger system of trail and public access improvements that are currently required under BCDC Permit No. 1982.026 and that generally extend between Belmont Slough and Oracle Parkway. The available space to build the school and to provide additional public access is constrained by existing public access requirements at the site, as well as by the narrow width of the land between the shoreline and the road.

The project authorized in Amendment No. Eight will involve, partially within the Commission's 100-foot shoreline band jurisdiction, demolition of the existing parking lot, and construction a 34,300-square-foot, two-story school building (with a total floor area of 64,000 square feet), a 35-space parking lot, and a 20-car student drop-off lane. The school building and the parking and student drop-off facilities will be constructed within the footprint of the parking lot, basketball court, and soccer field that were authorized in Amendment No. Five. The new school is expected to have 550 students and 30 faculty and staff, and to be open year-round, Monday through Friday from approximately 8:00 am to 5:00 pm. The project also involves raising the existing levee to address sea level rise.

1. **Public Access Associated with Material Amendment No. Eight.** The permittees will provide a net increase of approximately 71,712 square feet (1.6 acres) of public access area. All areas within the limits of work that are not occupied by the school building's footprint and the front of the building will be available for public access, as shown on Exhibit E. The permittees will permanently guarantee approximately 28,000 square feet of new public access area, but will remove approximately 1,100 square feet of existing dedicated public access in order to re-configure the sidewalk on Oracle Parkway. This will result in a net increase of

26,900 square feet of dedicated public access. In addition, the school patio, parking lot, and student drop-off area will be open to the public from 5:00 pm to sunset on weekdays, and from sunrise to sunset on weekends and holidays. The parking lot and student drop-off area will be available for recreational uses, such as basketball, street hockey, and open-air markets and events, during the public hours specified above. Signage will be installed in order to inform the public of the hours of use. While these additional areas will not be permanently dedicated solely for public access use, they will result in approximately 44,812 square feet of additional area that will be available to the public on weekday evenings, weekends and holidays. These areas are identified as "proposed required public access" in Exhibit E. Therefore, the project will result in a total increase of public access area by approximately 71,712 square feet, of which 26,900 square feet will be permanently guaranteed. Although the authorization in Amendment No. Five for the basketball court, soccer field, and parking lot will be superseded by the project authorized in Material Amendment No. Eight, the public access area that was dedicated in association with Amendment No. Five will remain in place, with the exception of the 1,100 square feet as described above. Special Condition II-D-3 requires the permittees to permanently dedicate the public access areas, as described above, and Special Condition II-D-9 requires, in part, the permittees to make the patio, parking lot, and student drop-off area publicly available outside school hours.

Within the existing and new public access areas, public access improvements will include: an improved approximately 1,124-foot-long, 12-foot-wide portion of the Bay Trail on top of the raised levee; a total of approximately 993 linear feet of new or improved public paths and sidewalks ranging from five to eight feet (in some cases, existing sidewalks will be narrowed to a five-foot-six-inch width from an eight-foot width); three Bay Trail entry points from the sidewalk on Oracle Parkway; a Bay Trail plaza area behind the school; three exercise nodes (to replace three existing exercise nodes originally required by Amendment No. Five); two seating areas; three other gathering spaces for education, contemplation and picnicking; 11 public bicycle racks; 71,130 square feet of landscaping; a basketball court within the parking lot; signage; and other public amenities (including benches, tables, garbage receptacles, and drinking fountains) (Exhibit F). The improvements will also include the relocation of fourteen public parking spaces (originally required in Amendment No. Five), to the east, on Oracle Parkway. All of the public facilities authorized and required in Amendment No. Eight will comply with the Americans with Disabilities Act (ADA) requirements and will be maintained by the permittees. Special Condition II-D-9 requires the permittees to install the public access improvements, as described above, and Special Condition II-D-10 has been included to ensure that all public access areas and improvements are maintained for the public's use.

The project will include two parcel or lot line reconfigurations: a new 4.8-acre parcel will be created for the school site, and the southern boundary of Lot 8 will be modified in order to accommodate the relocated public parking spaces. The parcel and lot line changes constitute subdivisions of land for purposes of the Subdivision Map Act and, in addition, are considered a "substantial change in use of land" as defined in Section 66632(a) of the McAteer-Petris Act and Section 10125(b)(5) of the Commission's administrative regulations, because the reconfiguration of the parcels will result in opportunities for different land uses that could potentially affect present and/or future public access to or along the shoreline of Belmont Slough. Therefore, the parcel and lot line changes require a permit under the McAteer-Petris Act. The reconfigurations that will result from these subdivisions of land are expected to contribute to improved public access at the school site. Special Conditions II.C requires the permittees to submit a final subdivision map to ensure that these subdivisions of land are consistent with the authorization in Material Amendment No. Eight.

2. **Public Access and Wildlife Compatibility.** The improved Bay Trail will be located adjacent to a wildlife refuge priority use area within Belmont Slough. The increased use of the Bay Trail could potentially impact wildlife in the adjacent marsh, which is suitable habitat for endangered species such as the salt marsh harvest mouse and the California Ridgway's Rail. To minimize disturbance to wildlife, a rope post fence will be installed to keep recreational users and pets outside of the marsh. Currently, no signage will be installed to inform recreational users of the sensitive wildlife habitat. The permittees state that the rope post fence will be sufficient to keep people and pets out of the marsh. The permittees and Commission staff have discussed that, should problems arise with people and pets entering the marsh, additional measures could be taken, including installation of signage. The project will also involve the removal of ice plant from upland areas adjacent to the marsh, and replanting of those areas with marsh transition zone vegetation. Special Condition II.D.11 requires the permittees to take additional measures to prevent disturbance to the marsh in the event that problems are identified.

3. **Similar Projects Approved by the Commission.** In evaluating whether the public access is the maximum feasible consistent with the project, the Commission looks, in part, to its past actions on comparable projects. In 2005, the Commission issued BCDC Permit No. M2005.019.00 for the construction of a 22,500-square-foot, one-story, 25-foot-high community library, partially within the Commission's jurisdiction, located nearby, adjacent to Belmont Slough, in the City of Redwood City (Table 1 below). The project included the dedication of approximately 81,502 square feet of public access area, and installation of two public paths totaling 283 linear feet, approximately 31,286 square feet of public outdoor decks adjacent to the library structure, landscaping, and other public amenities. In 2009, the Commission issued BCDC Permit No. M2006.008.01 to construct the Tidewater

Aquatic Center in the City of Oakland, which included two one-story 28-foot-high boat storage buildings (9,700 square feet total), a 3,000-square-foot, two-story, 24-foot-high building, a floating dock, and shoreline protection. The project provided a total of 54,610 square feet of public access area, and additional public access improvements, including a 460-foot-long public path, an entry plaza, two boat staging areas, and signage.

| **Project** | **Building Dimensions** | **Public Access Area Provided** | **Public Improvements Provided** |
|---|---|---|---|
| Design Tech High School (Material Amendment No. Eight herein) | 34,300-square-foot building | 71,712 square feet | 1,124 feet of improved Bay Trail, additional paths, landscaping, three improved exercise nodes, total of eight sitting/gathering spaces, plaza, signage, other amenities, public use of patio and parking lot with basketball court outside school hours |
| Redwood Shores Branch Library (BCDC Permit No. M2005.019.00) | 22,500-square-foot building | 81,502 square feet | 283 feet of path, 31,286 square feet of outdoor decks, landscaping, signage, other amenities |
| Tidewater Aquatic Center (BCDC Permit No. M2006.008.01) | Two buildings totaling 12,700 square feet | 54,610 square feet | 460 feet of path, entry plaza, two boat staging areas, landscaping, signage |

**Table 1. Summary of Projects and Public Access Provided**

The Commission finds that, as conditioned, the public access is the maximum feasible consistent with the project and will be constructed in a manner that will maximize opportunities for public use and minimize impacts to wildlife.

b. **Sea Level Rise and Flooding.** The Bay Plan Public Access Policy 5 states, "public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding." Policy 6 states, in part, "whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed…. 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." Climate Change Policy 2 states, in part, "when planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by 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." Climate Change Policy 3, states, in part, "…within areas that a risk

assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects…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."

The project authorized in Amendment No. Eight is located within an approximately 900 feet long site and is not considered a larger shoreline project given the scale of the project and the site context. Therefore, a formal risk assessment was not prepared. However, the permittees designed the project to address future sea level rise and provided information about the risk of potential flooding. The project site is currently protected from the 100-year flood within Belmont Slough by a levee. According to the latest FEMA flood maps (updated July 16, 2015), the 100-year flood elevation within Belmont Slough is 10 feet NAVD 88. The expected life of the project is 50 years, and the permittees are using a sea level rise projection of 36 inches through year 2070 in their design. Therefore, the projected water elevation for the 100-year flood by year 2070 is approximately 13 feet NAVD 88.

The project will include raising the existing levee and constructing the improved Bay Trail on top of the levee and providing additional public access areas and improvements behind it. The majority of the length of the levee within the project limits (approximately 837 feet out of 1,124 feet) will be raised to 14 feet NAVD 88. This elevation is equivalent to the 100-year flood, plus 36 inches of sea level rise and one foot of free board. The permittees will enter a maintenance agreement with the City of Redwood City to maintain the levee pathway and elevation. Therefore, the majority of the Bay Trail path on top of the levee will be designed and maintained to be above the projected flooding and sea level rise elevations for the life of the project. The raised levee will also provide protection to the inland public access areas from flooding coming directly from the north of the site.

However, the levee elevation will drop below 14 feet NAVD 88 at the eastern and western project boundaries in order to conform to the adjacent levee elevations. To the west, the adjacent levee elevation is approximately 12.3 feet NAVD 88. To the east, the adjacent levee elevation is approximately 12.1 feet NAVD 88. If measures are not taken to raise the levee across the entire shoreline in the future, the project site and public access areas could potentially experience flooding within the expected life of the project, due to overtopping at the adjacent areas and the project boundaries. Therefore, the viability of the public access could potentially be at risk. For example, overtopping of the adjacent levee to the east could begin to occur when the water levels are above approximately 12.1 feet NAVD 88, which is equivalent to approximately 2.1 feet (25 inches) of sea level rise on top of the current 100-year flood. Based on the sea level rise projections from the National

Research Council's 2012 report,[1] this water elevation could occur by approximately mid-century. Further, by year 2070, the 100-year flood is projected to be approximately 13 feet NAVD 88, which would result in approximately 0.9 feet of overtopping at the adjacent levee to the east, and in overtopping at the project boundaries.

The site is graded such that water will flow towards Oracle Parkway. The on-site drainage connects to the public storm water system at Oracle Parkway, which discharges into the lagoon in the center of the Oracle office park. The lagoon is connected to Belmont Slough via two culverts with flap valves and a force main. The permittees' engineer states, "…the proposed piping has the capacity to convey greater than a 100-year storm [rainfall event with 1% annual chance of occurring] with the proposed site conditions. Should the Oracle Parkway storm drains back up, there is ample storage available in the on-site piping before inlets would experience reverse flow and water would surface to flow in the overland release paths to the street."

However, the on-site storm draining piping is not specifically designed for intake and conveyance of levee overtopping and tidal water influx, and in the absence of volumetric information, the storm drainage system's capacity to convey tidal flood waters cannot be accurately determined. The permittees' engineer also states, "Runoff/flooding that is not captured in the off-site storm drain piping is conveyed in the curb and gutter street section. Given the location of the street high point, surface water drains either to the east or west in Oracle Parkway or toward the south…."

A sea level rise vulnerability assessment for San Mateo County was recently conducted by the Sea Change San Mateo County Initiative.[2] Flood mapping information from this assessment shows that flooding originating from other areas in the city could affect the site when water levels are at 48 inches of sea level rise above today's Mean Higher High Water (equivalent to approximately 11.5 feet NAVD 88 or the 100-year flood by mid-century). Therefore, complete flood protection of the public access areas may necessitate a larger flood protection strategy beyond the project site and the immediately adjacent areas. While the permittees propose to develop an adaptation plan in coordination with the City of Redwood City to address any *additional* future sea level rise or FEMA revisions post-construction, these adaptive measures would involve building the on-site shoreline protection higher and not necessarily address flooding originating from surrounding areas that could occur by mid-century. The permittees' engineer states, "Redwood City has stated that they are on alert for future direction from FEMA to reconstruct the necessary portions of the City levee system that may be deemed inadequate due to sea level rise…."

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[1] Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future (2012). http://www.nap.edu/catalog.php?record_id=13389

[2] http://seachangesmc.com/

Special Condition II-B requires the permittees to build the project consistent with the approved plans so that the levee will be built to an elevation that will provide flood protection to the site. Special Condition II.E requires the permittees to implement adaptation strategies to protect the viability of the public access areas when they become regularly inundated. "Regularly" is defined as one day per month for three (3) consecutive months in any two (2) years within a five (5) year period. At the time of issuance of Material Amendment No. Eight, this was identified as the threshold duration and frequency of flooding at which public access would become significantly impacted. In the event that adaptation strategies could result in a significant visual or physical impact on the public access areas required in Material Amendment No. Eight, the permittees are required to develop and implement an alternative strategy to ensure that maximum feasible public access consistent with the project authorized in Material Amendment No. Eight is provided for the life of the project.

It should be noted, however, that because flooding due to sea level rise will occur many years from the issuance of Material Amendment No. Eight, it is difficult to know whether future "regular inundation," as specifically defined above, will have a significant adverse effect on public access at that time. Therefore, as more is learned about acceptable frequency and duration of flooding, it may be necessary to revise the terms of this special condition through a future amendment to this amended permit. Determining whether or not a future amendment is needed should be based, in part, on the daily use patterns of the public access areas, the needs of the shoreline visitors and the importance of the public access at the site in the context of the larger shoreline trail system. The reporting of flooding that is required in Special Condition II-E should also inform the development and implementation of adaptation strategies.

The Commission finds that, as conditioned, the project will be designed and managed to avoid impacts from sea level rise and flooding.

c. **Appearance, Design, and Scenic Views.** The Bay Plan Appearance, Design, and Scenic Views Policy 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." Policy 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. In particular, parking areas should be located away from the shoreline." Policy 8 states, in part, "shoreline developments should be built in clusters, leaving areas open around them to permit more frequent views of the Bay. Developments along the shores of tributary waterways should be Bay-related and should be designed to preserve and enhance views along the waterway, so as to provide maximum visual contact with the Bay." Policy 14 states, in part, "views of the Bay from vista points and from roads should be maintained by appropriate

arrangements and heights of all developments and landscaping between the view areas and the water. In this regard, particular attention should be given to all waterfront locations, areas below vista points, and areas along roads that provide good views of the Bay for travelers….”

Existing views to Belmont Slough, from the section of Oracle Parkway directly adjacent to the site, are limited due to the existing levee height, existing vegetation, the narrowness of the slough, and the distance from the road to the edge of the shoreline. Views across the slough are of residential homes. However, there are some views of Belmont Slough from Oracle Parkway to the east and west of the site.

The project will impede the limited views to the slough further due to raising the majority of the levee by varying amounts up to approximately 3.5 feet, additional raising of the site, and the school building itself. The site will be graded such that the finished floor elevation of the building will be 11 feet NAVD 88. The majority of the building will be approximately 31 feet tall (portions of the building are 38 feet tall), and the building will be approximately 426 feet long. Across the approximately 900-foot-long site, a total length of approximately 474 feet will be kept open along Oracle Parkway. In order to create more openness, the school building will be designed to allow an approximately 30-foot-wide view through the interior space in the center of the building by utilizing glass window paneling and careful interior design. Although there will be no public views to the slough from the road, the public will be able to view the slough from the Bay Trail, the plaza, seating areas, and other public access areas. The parking lot will be located away from the shoreline to minimize visual impacts on the shoreline.

The Commission finds that the project will maximize views to the Bay and shoreline.

~~E.~~ F. **Debris.** Special Condition II-I~~D~~, which requires that all debris existing in the marsh and open space areas be removed to a location outside of the Commission’s jurisdiction, assures that the public will be provided a safe and attractive public access area.

~~F.~~ G. **Water Quality.** Special Condition II-L~~E~~, which requires that the permittees assure that stormwater runoff and discharges from the internal lagoon from the project site meet the criteria of the Regional Water Quality Control Board, thereby assures that the project as authorized and amended herein to construct three outfall structures in the Bay will not adversely affect the quality of Bay waters.

~~G.~~ H. **Precedent.** Working with Commission staff, the Metropolitan Transportation Commission (MTC) has recently completed a study relating recently proposed developments east of Highway 101 with the already strained capacity of that freeway. Highway 101 is already at capacity in several sections and the study concluded that if all the projects proposed for development east of the freeway are completed, traffic on Highway 101 may exceed capacity by 40 percent at peak hours. If that takes place, there will obviously be pressure to either widen the freeway or construct a new expressway to the east of the existing freeway. Either would require extensive fill in the Bay.

The Commission finds that this project should not be treated as a precedent or encouragement for the authorization of such fill. No policies have yet been adopted to deal with the overall issue of traffic generation east of Bayshore and there is little evidence to suggest that this project by itself will lead to fill in Bay. Moreover, all of the site within the Commission's jurisdiction will be public access. Consequently, the Commission finds the project to be consistent with the Bay Plan and the McAteer-Petris Act. However, the Commission also recognizes that some policies will have to be developed in coordination with affected local, state, and regional agencies to deal with the overall problem to avoid the major fills that might take place if no other transit or planning alternatives are chosen.

I. **Review Boards**

1. **Engineering Criteria Review Board.** The Commission's Engineering Criteria Review Board did not review the project authorized in Material Amendment No. Eight because no Bay fill is involved.

2. **Design Review Board.** The Design Review Board (DRB) reviewed the project authorized in Material Amendment No. Eight on December 7, 2015. The DRB provided the applicants with following advice: (1) create views through the center for the building, and provide wider and more public access connections; (2) redesign the "Bay Trail Plaza" to make the space feel more public; (3) use a plant palette that considers the adjacent marsh; (4) improve the parking lot design to increase usability by the public and incorporate more trees; (5) define the schedule for public use of outdoor patios and parking lot; (6) consider the compatibility of public access areas with adjacent wildlife habitat; and (7) further evaluate the adaptation strategy to sea level rise. The applicants worked with the staff to address and resolve these public access and design issues.

~~H~~ J. **Environmental Document.** Redwood City, the lead agency of the original project, adopted and certified an Environmental Impact Report on September 21, 1982. Moreover, pursuant to Commission Regulation Section 11501, Amendment Nos. One, Two, Three, Four and Five are categorically exempt from the requirement to prepare an environmental document.

Pursuant to the California Environmental Quality Act (CEQA), the City of Redwood City Planning Commission approved a final Environmental Impact Report (EIR) on May 3, 2016 for the project authorized in Material Amendment No. Eight. The City evaluated the potential impacts of constructing the school and associated improvements, and adopted a Mitigation Monitoring and Reporting Program that requires implementation of mitigation measures that reduce impacts to "less than significant" levels.

~~I.~~ K. **Public Trust.** By this amended permit, the Commission determines that the uses proposed for the areas subject to tidal action are consistent with public trust needs.

~~J.~~ L. **Conclusion.** For the reasons above, the Commission finds that this project provides the maximum feasible public access consistent with the project and is consistent with the Bay Plan and McAteer-Petris Act. The Commission further finds, declares, and certifies that the activity or activities authorized and amended 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.

**IV. Standard Conditions**

~~A. 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 and/or county in which the work is to be performed, whenever any of these may be required. This amended permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.~~

~~B. The attached Notice of Completion shall be returned to the Commission within 30 days following completion of the work.~~

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

~~D. Work must be performed in a manner so as to minimize muddying of waters, and if diking is involved, dikes shall be waterproof. If any seepage returns to the Bay, the permittee will be subject to the regulations of the Regional Water Quality Control Board in that region.~~

~~E. The rights, duties, and obligations contained in this amended permit are assignable. When the permittee transfers any interest in any property either on which the authorized activity will occur or which is necessary to the full compliance of one or more conditions to this amended permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the amended permit and agrees to be bound by the terms and conditions of the amended permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended permit.~~

~~F. Unless otherwise provided in this amended permit, all the terms and conditions of this amended 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 amended permit exists, whichever is longer.~~

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

~~H. Unless otherwise provided in this amended permit, any work authorized herein shall be completed within the time limits specified in this amended permit, or if no time limits are specified in the amended permit, within three years. If the work is not completed by the date specified in the amended permit, or if no date is specified, within three years from the date of the amended permit, the amended permit shall become null and void. If this amended permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on this amended permit shall be removed by the permittee or its assignee upon receiving written notification by or on behalf of the Commission to remove the fill.~~

~~I. Except as otherwise noted, violation of any of the terms of this amended permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittee or its assignee if the amended 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 amended permit shall be removed by the permittee or its assignee if the permit has been assigned.~~

~~J. This amended permit shall not take effect unless the permittee executes the original of this amended permit and returns it to the Commission within 10 days after the date of the issuance of the amended permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.~~

~~K. 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 amended permit.~~

~~L. 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 amended permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.~~

~~M. Unless the Commission directs otherwise, this amended permit shall become null and void if any term, standard condition, of special condition of this amended permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this amended permit becomes null and void, any fill or structures placed in reliance on this amended permit shall be subject to removal by the permittee or its assignee if the amended 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.~~

A. **Permit Execution**. This amended permit shall not take effect unless the permittees execute the original of this amended permit and return it to the Commission within ten days after the date of the issuance of the amended 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 amended 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 amended 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 amended permit and agree to be bound by the terms and conditions of the amended permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended permit.

D. **Permit Runs With the Land**. Unless otherwise provided in this amended permit, the terms and conditions of this amended 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 amended 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 amended permit and any plans approved in writing by or on behalf of the Commission.

G. **Life of Authorization**. Unless otherwise provided in this amended permit, all the terms and conditions of this amended permit shall remain effective for so long as the amended permit remains in effect or for so long as any use or construction authorized by this amended 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 amended 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 amended 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 amended 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 amended permit reflects the location of the shoreline of San Francisco Bay when the amended 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 amended 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 amended permit shall be grounds for revocation. The Commission may revoke any amended permit for such violation after a public hearing held on reasonable notice to the permittees or their assignees if the amended permit has been effectively assigned. If the amended permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this amended permit shall be removed by the permittees or their assignees if the amended permit has been assigned.

K. **Should Permit Conditions Be Found to be Illegal or Unenforceable**. Unless the Commission directs otherwise, this amended permit shall become null and void if any term, standard condition, or special condition of this amended permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this amended permit becomes null and void, any fill or structures placed in reliance on this amended permit shall be subject to removal by the amended permittees or their assignees if the amended 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.