

September 30, 2016

TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Tinya Hoang, Coastal Program Analyst (415/352-3622; tinya.hoang@bcdc.ca.gov)

SUBJECT: Staff Recommendation on BCDC Permit Application No. 1998.011.05 (Material Amendment No. Five) of Trux Airline Cargo Services, Park SFO LLC, Robert E. Simms and City of South San Francisco's to Expand Park SFO Parking Garage
(For Commission consideration on October 6, 2016)

Recommendation Summary

The staff recommends approval of BCDC Permit No. 1998.011.05 to the Trux Airline Cargo Services, Park SFO LLC, Robert E. Simms and City of South San Francisco for the expansion of the Park SFO parking garage structure, which, as conditioned, will authorize the following:

1. Demolition of approximately 26,888 square feet of surface parking area and excavation of approximately 2,447 cubic yards of material;
2. Construction of an approximately 72,053-square-foot, 86-foot-tall garage expansion, of which 11,362 square feet will be within the Commission's 100-foot shoreline band jurisdiction; and
3. Repaving of a 9,826-square-foot area of asphalt, and installation of 5,700 square feet of landscaping.

The project will provide public access improvements located outside the Commission's jurisdiction, including traffic calming measures at the parking garage, 0.5 miles of Class II bike lanes, green-colored pavement at existing Class II bike lanes, new and improved pedestrian crosswalks, and improvements of a San Francisco Bay Trail entrance and wayfinding signage.

Staff Recommendation ¹

The staff recommends that the Commission adopt the following resolution:

I. Authorization

A. **Authorized Project.** Subject to the conditions stated below, the permittees, Trux Airline Cargo Services, Park SFO LLC, Robert E. Simms, and the City of South San Francisco, are granted permission to do the following at and near 1951 North Access Road, including the “finger” property with the small peninsulas, in the City of South San Francisco, San Mateo County:

1. In the 100-foot shoreline band:

- a. Remove an existing one-story, 30,000-square-foot building used for airline cargo handling;
- b. Original Parking Structure (1998). Construct, use and maintain an approximately 1,200-square-foot portion of a ~~new,~~ 70,000-square-foot (building footprint), 80-foot-high, six-story, long-term parking structure containing approximately 1,328 parking spaces ~~and a car wash (the car wash, while within the structure, would be outside the 100-foot shoreline band);~~
- c. Install, use and maintain in-kind an approximately ~~139,250~~ 122,188-square-foot paved area adjacent to the above-referenced parking structure and on the three (3) middle peninsulas “fingers” to provide approximately ~~416~~ 278 parking spaces;
- d. Parking Structure Expansion (2016). Construct, use, and maintain an approximately 11,362-square-foot portion of a 72,053-square-foot (building footprint), 86-foot-high, 1,530-vehicle expansion to the long-term parking structure (Material Amendment No. Five);
- e. To accommodate the parking structure expansion described above, demolish approximately 26,888 square feet of surface parking area, and excavate approximately 2,447 cubic yards of material for the structure’s foundation (Material Amendment No. Five);
- f. Repave, use, and maintain in-kind approximately 9,826 square feet of asphalt paving to accommodate vehicular circulation associated with the parking structure expansion described above (Material Amendment No. Five);
- ~~d.~~ g. Install, use and maintain approximately 114,450 square feet of shoreline-tolerant, habitat-enhancing landscaping in and around the first parking structure described above;

¹ Because the project involves a material amendment to a permit, the recommendation format is different from those for new permits and, thus, includes language from the existing permit and changes associated with the amendment. Deleted language from the permit is ~~struck through~~, new language is underlined, and language neither ~~struck through~~ nor underlined in the existing permit will remain unchanged in the subject amendment.

- h. Install, use, and maintain in-kind approximately 5,700 square feet of landscaping and irrigation associated with the parking structure expansion described above (Material Amendment No. Five);
 - e. i. Construct, use and maintain a new, 36,024-square-foot public access park on the southernmost peninsula “finger,” including landscaping, pathways, viewing areas, amenities and eight public parking spaces;
 - f. ~~Install, use and maintain:~~
 - (1) ~~an 8-foot-wide public access sidewalk on the north side of North Access Road from its intersection with South Airport Boulevard to the northern side of the North Access Road Bridge;~~
 - (2) ~~two bike lanes, at least 8 feet wide, on both sides of North Access Road from its intersection with South Airport Boulevard to the North Access Road Bridge;~~
 - (3) ~~two bike lanes, at least 7 feet wide, on both sides of the North Access Road Bridge; and~~
 - (4) ~~a 10-foot-wide public access pathway along the north side of San Bruno Channel between the north side of the North Access Road Bridge and the tide gate bridge~~
 - g. j. Install, use and maintain public access and traffic signs designed to eliminate potential conflicts between the users of the public access paths and park and vehicles traveling on North Access Road and to and from the parking facility; and
 - h. k. Install, use, and maintain a portion of an 89-foot-long and 6-foot-high steel fence located at the southeast corner of the parking structure and west of the eight public shore parking spaces (after-the-fact) (Amendment No. Four).
- B. **Application Dates.** This amended authority is generally pursuant to and limited by the permittees’ application received on June 29, 1998, ~~your~~ the letter dated June 8, 2001, requesting Amendment No. One, ~~your~~ the letters dated March 27 and June 3, 2002, requesting Amendment No. Two, ~~your~~ the letters dated December 12, and December 27, 2002, requesting Amendment No. Three, ~~and your~~ the letter dated April 11, 2016, requesting Amendment No. Four, and the letter dated June 11, 2015, requesting Material Amendment No. Five, including all accompanying plans and attachments, but subject to the modifications required by the conditions herein.
- C. **Deadlines for Commencing and Completing Authorized Work**
1. **Original Authorization.** The work authorized by the original permit was to commence by September 1, 1999, was also to be diligently pursued to completion and completed by September 1, 2002, unless the terms of this authorization are changed by further amendment of the original permit.

2. **Amendment Nos. One and Two.** Amendment No. One granted a time extension, until October 31, 2001, for the completion of the bicycle/pedestrian Spur Trail along North Access Road, which allowed Trux Airline Cargo Services to proceed in opening the parking facility on July 6, 2001. ~~Thereafter,~~ Amendment No. Two granted a second extension of completion time, until December 31, 2002, enabling the permittees to identify an alternative trail configuration that would be safe and would not cost more than the trail improvements authorized by the original permit.
 3. **Amendment No. Three.** Amendment No. Three authorized a time extension for the completion of the North Access Road Spur Trail, between South Airport Boulevard and the “peninsula finger” park. The installation of these public access improvements would commence no later than September 1, 2003, and be diligently pursued to completion by no later than October 15, 2003. Amendment No. Three was revoked and became null and void on July 18, 2003 due to the permittees’ failure to provide an executed original of the amended permit within 60 days of its issuance, ~~as required by Special Condition II.M (see letter from Steve McAdam, Deputy Executive Director, to the permittees, dated July 11, 2003).~~
 4. **Amendment No. Four.** Amendment No. Four provides after-the-fact authorization to partially resolve Enforcement Case No. ER2000.097. The majority of the required public access improvements were completed in 2010. The only additional work authorized pursuant to this amendment is to widen the public access on North Access Road from 18 feet to 25 feet by June 1, 2018. Therefore, Amendment No. Four grants an extension of completion time, from December 31, 2002, to June 1, 2018, to complete the public access required herein, unless a further extension of completion time is granted by further amendment of this amended permit.
 5. **Amendment No. Five.** Work authorized by Material Amendment No. Five must commence by November 1, 2019, and must be diligently pursued to completion by November 1, 2021, unless an extension of time is granted by further amendment of this amended permit.
- D. **Project Summary.** The original project authorized herein will result in the construction of a long-term, airport parking facility on the shoreline immediately north of the San Francisco International Airport. No fill in the Bay will result from the project. The original project will also provide approximately 36,024 square feet of new public access area, improve approximately 750 lineal feet of North Access Road for public access, and help preserve the open space and fish and wildlife resources at the project site. The project authorized in Material Amendment No. Five will expand the previously-authorized parking facility and result in public access improvements, including traffic calming measures, bike lanes, pedestrian infrastructure, and San Francisco Bay Trail improvements.

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.** Specific plans submitted 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: ~~(1)~~ completeness and accuracy of the plans in showing the features required above, particularly the shoreline, property lines, and any other improvements required by this permit; and ~~(2)~~ consistency of the plans with the terms and conditions of this amended permit. Plan review shall be completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed.
1. **Plan Review.** No work whatsoever shall be commenced pursuant to this amended authorization until final precise site, engineering, architectural, lighting, drainage, public access 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. The specific drawings and information required will be determined by the staff. To save time, preliminary construction drawings should be submitted and approved prior to final drawings.
 2. **Final Plans.** Final site, engineering, architectural, lighting, drainage, public access and landscaping plans shall include and clearly label the shoreline (the 5-foot-above Mean Sea Level Line), the line 100 feet inland of the shoreline, property lines, the boundaries of all areas to be reserved for public access or open space purposes, grading, details showing the location, types, dimensions, and materials to be used for all structures, irrigation, landscaping, drainage, seating, public parking, signs, lighting, fences, paths, trash containers, utilities and other proposed improvements.
 3. **Conformity with Final Approved Plans.** ~~a.~~ All work, improvements, and uses shall conform to the final approved plans.
 - ~~b.~~ a. **Original Authorization.** Final plans to be submitted shall generally conform to the plans submitted with the application for the original permit entitled: "Rest Parking Facility, 191 North Access Road, South San Francisco," dated February 23, 1998, prepared by the Innovative Design Group, with the exception that no sheetpiles are permitted in the Bay (i.e. below the 5-foot-above Mean Sea Level Line).
 - ~~c.~~ **Original Authorization.** Final plans to be submitted for the public access required by the original permit shall generally conform to the plans submitted with that e application, entitled: "Public Access Improvements," dated February 10, 1998, prepared by Callander and Associates.

4. **b. Amendment No. Four.** The project authorized by Amendment No. Four shall conform to the three sets of staff-approved plans submitted prior to and with that application entitled:
- (1) "Preliminary Signage Program for BCDC," prepared by Molly Duff, dated November 24, 1998, and approved by BCDC Staff on August 20, 2001;
 - (2) "North Access Road Public Access Project," prepared by City of South San Francisco Public Works Department, dated April 12, 2006 and November 21, 2006, and approved by BCDC Staff on April 12, 2007; and
 - (3) "Park SFO Airport Parking Expansion: Renovation Planting Plan," prepared by Jeanna Lau, last revised, April 4, 2016, and approved by BCDC Staff, on April 4, 2016.

No further plan review is required for the as-built elements of Amendment No. Four. However, further plan review is required for the unbuilt 7-foot-wide cross section of combined pedestrian and bicycle pathway that is missing on North Access Road between South Airport Boulevard and the North Access Road Bridge (see Special Condition No. II.B.4.d).

- c. Amendment No. Five.** Final plans to be submitted for the project authorized in Material Amendment No. Five shall generally conform to the plans entitled, "Park SFO, So. San Francisco, CA, Plan Check Submittal, 07-16-2015," dated July 16, 2015, prepared by International Parking Design, Inc., received on September 29, 2015, and to be revised to include traffic calming measures, including traffic calming rumbles strips, stop signs and stop lines at vehicular entries and exits from the parking facility, as generally shown on Exhibit D. Final plans to be submitted for the public access improvements required in Special Conditions II.B.4.g through II.B.4.i, shall generally conform to Exhibit D.
- e. d.** Prior to any use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the amended authorization has been performed in accordance with the approved design criteria and in substantial conformance with the approved plans. No noticeable changes shall be made thereafter to any final plans or to the exterior of any constructed structure, drainage, outside fixture, lighting, landscaping, signs, or public parking areas without first obtaining written approval of the change(s) by or on behalf of the Commission.
- 4. Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final approved plans and Special Conditions of this amended authorization or legal instruments approved pursuant to this amended authorization, the special condition or the legal instrument shall prevail. The permittees are responsible for assuring that all plans accurately and fully reflect the Special Conditions of this amended authorization and any legal instruments submitted pursuant to this amended authorization.

B. Public Access

1. **Area.** The approximately 36,024-square-foot area on the southern-most “peninsula finger” (i.e. the “peninsula finger” park) that is owned by ~~Trux Airline Cargo Services~~ Robert E. Simms, and the approximately 25,354-square-foot area of North Access Road (21,263 square feet of as-built, roughly 6,076 square feet of unbuilt) to be developed with sidewalks and bike lanes (a portion of the North Access Road Spur Trail) shall be made available exclusively to the public for unrestricted public access and Bay Trail uses such as walking, bicycling, sitting, viewing and related purposes. If the permittees wish to use the public access area for other than public access purposes, ~~it~~ they must obtain prior written approval by or on behalf of the Commission.

The North Access Road bike lanes will be developed on the North Access Road from its intersection with South Airport Boulevard to the north side of San Bruno Channel (owned and controlled by the City of South San Francisco).

The North Access Road sidewalk will be developed on the north side of North Access Road, adjacent to the bike lane, and continue with a public access pathway from the northern end of North Access Road Bridge on the South Side of San Bruno Channel (on property owned and controlled by the City and County of San Francisco), to the aforementioned southern-most peninsula “finger”, as generally shown on Exhibits A-1, A-2, C-1 and C-2 of the amended permit.

2. **Public Access Area Guarantee.** Prior to the use of any of the parking facilities authorized in the original permit, the permittees shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise guarantee such rights for the public to: (1) the public access areas on the southern-most peninsula “finger,” owned by Trux Airline Cargo, as described in Special Condition II-B-1, for as long as the parking structure or parking spaces authorized by this amended permit exist, and (2) the portions of the North Access Road Spur Trail that are owned or controlled by the City of South San Francisco which runs from South Airport Boulevard to the south end of the North Access Road Bridge, owned by Caltrans, over San Bruno Channel, as described in Special Condition II-B-1, in perpetuity. (The public access pathway on the north side of the San Bruno Channel from North Access Road to the tide gate bridge is owned by the City and County of San Francisco and, pursuant to the terms of Use Permit No. 3950, issued to the permittees in May 2007, cannot be guaranteed by the permittees.) The initial draft of the instrument was to have been submitted by the permittees no later than August 1, 2003.

The public access required herein to be dedicated was not dedicated at the time of issuance of Amendment No. Four and shall be dedicated at two different times consistent with the requirement of Special Condition II.B.4.C below. The first instrument will capture 18 feet of a total of 25 feet of public access on North Access Road and the 15 feet and 1 inch of bicycle lanes on the North Access Road bridge. The second instrument will capture 7 additional feet of public access on North Access

Road. Both instruments will be approved by staff later than the originally-required due date of August 1, 2003. The first was recorded on August 24, 2016, ~~the original due date and~~ after issuance of Amendment No. Four. The second instrument, which will supersede the first superseding instrument, will capture shall be submitted to the BCDC staff for review as described below. The second instrument must be approved prior to use of the widened pedestrian and bicycle pathway, described in Special Condition II.B.4.c.1 approved by staff by June 1, 2018.

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 amended authorization and prior to the use of any structures authorized herein. Such instrument(s) shall be in a form that meets recordation requirements of San Mateo County and shall include a legal description of the property ~~being~~ restricted and a map that clearly shows and labels the shoreline, 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(s) shall occur within 30 days after submittal for approval and shall be based on the following:

- a. Sufficiency of the instrument(s) to create legally enforceable rights and duties to provide the public access area required by this authorization;
 - b. Inclusion of an exhibit to the instrument(s) that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and
 - c. Sufficiency of the instrument(s) to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.
3. **Recordation of the Instrument(s)**. Within 30 days after approval of any instrument(s), the permittees shall record that instrument and shall provide evidence of recording to the Commission. No changes shall be made to the instrument(s) after approval without the express written consent by or on behalf of the Commission.
 4. **Public Access Improvements ~~Within the Total Public Access Area~~**. Prior to the use of any of the parking facilities authorized herein through Amendment No. Four the permittees shall install the public access improvements as generally shown on Exhibits A-1, A-2, C-1 and C-2 (revised by Amendment No. Four). These improvements are described as follows:
 - a. A new, approximately 36,024 square-foot, public access “peninsula finger” park that includes landscaping, pathways, an access sidewalk from North Access Road and an overlook area (Exhibit A-~~12~~);

- b. A minimum of 8 signed public parking spaces;
- c. Pedestrian and bicycle San Francisco Bay Trail connections consisting of:
 - (1) **North Access Road (from its intersection with South Airport Boulevard to the northern side of the North Access Road Bridge):** A 25-foot-wide cross section of combined pedestrian and bicycle pathway;

~~On a temporary basis~~ Until June 1, 2018, an 18-foot-wide section of combined pedestrian and bicycle pathway consisting of an 8-foot-wide sidewalk and two 5-foot-wide Class II bike lanes along North Access Road (as shown on Exhibit C-2).

By June 1, 2018, ~~the permittees must widen~~ the 18-foot-wide cross section must be widened by 7 feet to establish a the 25-foot-wide cross section of combined pedestrian and bicycle pathway (consisting of a sidewalk not less than 8 feet and two Class II bike lanes not less than 8 feet each) or provide public access of another layout but of equal or greater public benefit pursuant to staff-approved plans as required by Special Condition No. II.A.3.~~db~~ (after-the-fact) (Amendment No. Four);
 - (2) **North Access Road Bridge:** Two Class II bike lanes, 7 feet, 3 inches wide on the west side of the bridge and 7 feet, 10 inches wide on the east side of the bridge (as shown on Exhibit C (after-the-fact)); and
 - (3) **Pathway:** A 10-foot-wide pathway from the northern end of the North Access Road Bridge on the north side of San Bruno Channel to the tide gate bridge leading to the "peninsula finger" park, including crosswalks where necessary, to complete the connection of the "peninsula finger" park to the Bay Trail that is located adjacent to South Airport Boulevard (after-the-fact) (Amendment No. Four);
- d. New road and trail signs that: (1) promote pedestrian use of North Access Road sidewalk and the "finger peninsula park" (i.e. Public Access and Bay Trail signs); and (2) minimize potential conflicts between the users of the public access areas, the parking garage, and the tidegate access bridge. The number and placement of the signs shall be sufficient to clearly convey the public access opportunities at the site and shall be consistent with the signage plan cited in Special Condition II-A-3-~~db~~-1) above;
- e. Site furnishings, including a minimum of four benches and two garbage containers, and appropriate lighting; and
- f. New landscaping on the south and east side of the parking structure designed to screen the parking structure and reduce its visual impacts from the public access areas required herein.

Such improvements shall be consistent with the plans approved pursuant to Condition II-A of this amended authorization.

5. **Public Access Improvements (Material Amendment No. Five).** Prior to the use of any of the parking facility improvements authorized in Amendment No. Five, the permittees shall implement the public access infrastructure improvements as generally shown on Exhibit D, and described as follows:
- a. Traffic calming improvements, including rumble strips, stop signs, and stop limit lines, located where the parking garage main entry/exit driveways adjoins with the sidewalk and bike lane at North Access Road;
 - b. Approximately five-foot-wide Class II bicycle lanes along the east and west sides of South Airport Boulevard between the south “fork” of North Access Road to Utah Avenue and green “skip” painting at driveways adjoining the bicycle lanes;
 - c. High-visibility, barrier-free (i.e., compliant with Americans with Disabilities Act (ADA) standards) crosswalks, curb ramps, and pedestrian islands at South Airport Boulevard and at Belle Aire Road, as shown on Exhibit D;
 - d. Green pavement painting at existing Class II bicycle lanes on the north and south sides of Belle Aire Road;
 - e. Re-grading the entrance to the San Francisco Bay Trail at the Belle Aire Road cul-de-sac to ease entry transition for users, and install entry public information signage leading to the nearby Colma Creek public access bridge; and
 - f. Installation of up to 15 San Francisco Bay Trail wayfinding signs to improve safety and movement for pedestrians and bicyclists within the project vicinity, at locations to be determined in coordination with the BCDC staff.

Such improvements shall be consistent with the plans approved pursuant to Condition II-A of this amended authorization.

- ~~5.~~ 6. **Maintenance.** The areas and improvements within the public access area described above in Special Conditions II-B-4 and II.B.5, shall be permanently maintained by and at the expense of, the permittees or their assignees. Such maintenance shall include, but is not limited to repairs to all path surfaces, bicycle lane striping and painting, crosswalks, and traffic calming measures at the parking facility, replacement of any plant materials deposited within the access areas, removal of any encroachments into the access areas, and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.
- ~~6.~~ 7. **Assignment.** The permittees may transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this amended permit.
- ~~7.~~ 8. **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.

C. Water Quality.

1. The discharge of any solid or liquid wastes into the Bay at the project site is not authorized herein. Furthermore, the permittees shall ensure that all runoff is in compliance with the non-point source water quality requirements of the Regional Water Quality Control Board, San Francisco Bay Region, pursuant to the federal Porter-Cologne Act, the Clean Water Act and the Coastal Zone Management Act.
2. Prior to the commencement of any grading or construction authorized through Amendment No. Four, the permittees shall submit to the Commission copies of any hazardous waste reports prepared for the Regional Water Quality Control Board, or the Department of Toxic Substances Control, or other agency with expertise and jurisdiction in the area. The permittees shall ensure that any protection or mitigation measures recommended in the reports are incorporated into the project's design, construction and operation.

D. Limit of Work. All work authorized herein through Amendment No. Four shall be confined to the upland areas (i.e. lands above the 5-foot above Mean Sea Level elevation) of the project site, with the exception of the removal of large, unsightly concrete and miscellaneous rubble as required in Special Condition II-I below. No work is permitted in the water or adjacent marshes or mudflats. Any shoreline protection work (sheetpiles, bulkheads, retaining walls, riprap, etc.) ~~proposed~~ at the project site must first be reviewed for consistency with the Commission's policies on shoreline protection and subsequently approved by or on behalf of the Commission before any shoreline work could take place.

E. Wetland Protection. The work authorized by this amended permit through Amendment No. Four 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 after receiving approval of a restoration plan by or on behalf of the Commission's pursuant to Special Condition II-A.

F. 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.

- G. 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 amended permit and the final BCDC-approved plans, particularly as they pertain to any public access required herein.
- G. H. Transitional Upland Habitat Enhancement.** Prior to the use of any of the facilities authorized herein through Amendment No. Four, the permittees shall: (1) remove any large, unsightly concrete and miscellaneous rubble from the peninsulas “fingers,” and (2) plant the perimeter of the 3 middle peninsulas “fingers” (i.e. the recommended 30-foot setback at the tip of each peninsula “finger” and the 5-foot setback along the length of the peninsulas “fingers”) with plants that will enhance the area’s shoreline habitat for fish and wildlife. Native plants should be used whenever possible. *Hakea*, as well as other exotic plants that do not substantially enhance the habitat function and value of the setback areas, and other undesirable, invasive exotic plant species, are not permitted. The landscaping plan shall be reviewed and approved pursuant to Special Condition II-A above, and the installation of the landscaping shall be coordinated with the California Department of Fish and Wildlife Game.
- H. I. Wildlife Refuge Area.** Prior to the use of any parking facilities authorized herein through Amendment No. Four, the permittees shall restrict as open space for wildlife purposes, to remain in its unimproved or current natural condition with no further filling or development consistent with this amended authorization for as long as the parking on the peninsulas “fingers” exists, the open water, mudflat, marsh and upland transitional habitat portions of the property that the permittees own, lease, or control but are not to be improved with the parking facility as authorized herein, as generally shown in Exhibit B.
1. **Open Space for Wildlife Habitat Instrument.** At least 180 days prior to the use of any parking facilities, the permittees shall submit to the Executive Director a first draft of an instrument that creates such open space restriction for the life of the parking on the peninsulas “fingers” and that includes a map that shows all appropriate boundaries, including the shoreline (the 5-foot above Mean Sea Level line), and a metes and bounds description of the area being restricted as open space. The instrument shall be in a form suitable for recording in “San Mateo County.” The Executive Director shall review the first draft of the instrument to ensure that it will be sufficient to create the required open space protections within 45 days and forward comments to the permittees. At least 60 days prior to the use of the parking facilities, the permittees shall correct any deficiencies and re-submit a second draft of the instrument for further staff review. Use of the facilities may commence after the Executive Director approves the instrument. After the Executive Director approves the instrument, the permittees shall record the approved instrument with San Mateo County and provide proof of its recording to the Commission within 30 days.

2. **Use.** The open space for wildlife habitat areas shall be used exclusively for wildlife habitat purposes and shall be reserved for these purposes for the life of the parking on the peninsulas ~~“fingers.”~~ Under no circumstances shall the open space for wildlife habitat areas be used for any purposes other than open space and wildlife habitat without first obtaining approval by or on behalf of the Commission.
- ~~I.~~ J. **“Finger” Peninsula Parking Monitoring Reports.** The permittees shall be responsible for monitoring the wildlife habitat surrounding the project site for ten years after the use of the parking facility (authorized through Amendment No. Four) begins. Such monitoring shall include measuring the water quality, bird use, and plant survival and plant growth rates in the marsh and on the peninsulas ~~“fingers.”~~ Two monitoring reports, one at five years and one at ten years, prepared by a qualified biologist, shall be submitted to the Commission for review. Should adverse conditions created by the permittees be identified, the permittees shall take corrective action as specified by or on behalf of the Commission.
- ~~J.~~ K. **Shielding of Night Security Lighting.** The permittees shall shield and direct all of the parking facility’s lighting away from the fish and wildlife and marsh and mudflat habitats adjacent to the site. Prior to the commencement of any grading or construction activities herein (through Amendment No. Four), the permittees shall submit lighting details, to be reviewed and approved pursuant to Special Condition II-A above and in consultation with the appropriate wildlife agencies, that guarantee that the lighting will not have a significant adverse impact on the adjacent fish and wildlife and marsh and mudflat habitats.
- ~~K.~~ L. **Recording.** The permittees shall record this amended document or a notice specifically referring to this amended document with San Mateo County within 60 days after execution of the amended permit issued pursuant to this amended authorization and shall, within 60 days after recordation, provide evidence of recordation to the Commission.

III. Findings and Declarations

This amended permit is issued based on the Commission’s findings and declaration that the authorized work is consistent with the McAteer-Petris Act, the *San Francisco Bay Plan*, the California Environmental Quality Act, and the Commission’s amended management program for the San Francisco Bay segment of the California coastal zone for the following reasons:

Originally-Proposed and -Authorized Project.

- A. **Use.** The project site is not located within a priority land use area designated by the *San Francisco Bay Plan*. Further, the project does not include any fill in the Bay. Therefore, the Commission finds that the project does not conflict with the Commission’s laws and policies that govern the use of a site within the Commission’s jurisdiction.
- B. **Fill.** The project does not include any fill. To ensure that subsequent plans do not show fill in the Bay and the construction of the project will not place any fill in the Bay, the Commission finds that Special Conditions II-A, “Final Plan Review,” and II-D, “Limit of Work,” are needed. Therefore, as conditioned, the Commission finds that the project will not place any fill in the Bay and is not in conflict with the Commission’s laws and policies governing the placement of fill in the Bay.

- C. **Public Access.** Section 66602 of the McAteer-Petris Act states that: "...existing public access to the shoreline and waters of the...[Bay]...is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided...."

The Bay Plan policies on public access state, in part, that public access should be provided in and through every new development "except in cases where public access is clearly inconsistent with the project because of public safety considerations or significant use conflicts. In these cases, access at other locations preferably near the project, should be provided whenever feasible." The Bay Plan also states: "Public access to some natural areas should be provided to permit study and enjoyment of those areas (e.g., by boardwalks or piers in or adjacent to some sloughs or marshes). However, some wildlife may be sensitive to human intrusion. For this reason, projects in such areas should be carefully evaluated in consultation with appropriate agencies to determine the appropriate location and type of access to be provided."

Site. The project site is located between the San Francisco International Airport (SFIA) to the south and the South San Francisco-San Bruno Water Quality Control Plant (WQCP) to the north. The site consists of ~~multiple two~~ parcels, owned by Robert E. Simms and the City of South San Francisco. ~~One is owned by Trux Robert E. Simms and is developed with a one-story, 23-foot-high, 30,000 square foot building and truck parking area used for airport cargo service. The other, the "finger" parcel, is owned by the City of South San Francisco Robert E. Simms and is used for storage of materials by the Public Works Department.~~ The site was historically used for ship building and maintenance; hence, the ~~shoreline "finger" configuration~~ shoreline configuration of several small peninsulas. The proposed project area is intersected by tidal portions of Colma Creek, the San Bruno Slough, the San Bruno Canal and the San Francisco Bay shoreline. The project vicinity is generally industrial in nature, occupied by land uses ranging from the wastewater treatment facility to jet fuel storage to warehousing, shipping and light manufacturing. A separate permit was ~~recently~~ issued by the Commission (BCDC Permit No. 8-98) to the City of South San Francisco for its WQCP Improvement Project (see discussion below). The shoreline configuration, and existing and proposed land uses in the project vicinity make providing continuous public access and completing the Bay Trail along the shoreline very challenging.

Original Parking Structure (1998). The long-term parking facility is proposed in response to the expansion of the SFIA. It will provide more parking for the greater numbers of people who are expected to use the airport. According to the final negative declaration certified for the project, using statistics from traffic studies conducted on nearby SFIA parking lots, the parking facility could generate as many as 20,897 vehicle trips a month. The parking facility itself will create an additional 16 jobs over the 40 jobs already provided by the Trux cargo service, for a total of approximately 56 employees. A certain number of parking patrons, employees and visitors will use the South San Francisco shoreline, thereby adding to the existing public access demand. Further, the increased traffic along North Access Road and South Airport Boulevard generated by the proposed project will cause significant adverse impacts on the user of the public access in the vicinity. In the absence of the new public access facilities proposed and required herein

pursuant to Special Condition II-B, existing public access areas could become more crowded and noisy, adversely affecting the quality of the existing and future public access experiences.

~~**Existing Public Access and Planning.** Improved and dedicated access exists along the north side of Colma Creek, around the Costco Superstore, and on Belle Air (Sam Trams) Island. The existing public access in the area, while providing access to much of the Bay shoreline in the area, is discontinuous. Linking these access areas is a priority for both BCDC and the San Francisco Bay Trail Project. The recent approval of the WQCP project (BCDC Permit No. 8-98) will complete the north-south portion of the public access needed in the area.~~

~~A planning effort is underway for the section of Bay Trail, which will bypass the SFIA. This planning effort expects the Bay Trail to terminate at the intersection of South Airport Boulevard and North Access Road. The Airport, pursuant to BCDC's recent authorization of the Airport's Master Plan (BCDC Permit No. 2-96), is responsible not only for planning the bypass trail, but also for improving the public access connection from the South Airport Boulevard/North Access Road intersection east along North Access Road to Belle Air Island (the North Access Road Spur Trail). Pursuant to Special Condition II-B-3 of the Airport's permit (BCDC Permit No. 2-96), the Airport studied installation of a Class I multi-use pathway along North Access Road and found physical constraints (such as the narrow strip of land between the United Airlines Cargo Building and the Bay) that would make installation of a Class I path difficult and costly. In the interim, the Airport has installed "Bike Route" signs to make the road a Class III bike lane facility and, under the direction of the Commission's staff, is in the process of amending BCDC Permit No. 2-96 and developing additional public access improvements to be installed in the vicinity of the Airport.~~

Public Access Pathway Alignment. In late 1997, the permittees began developing alternatives for the public access component of the REST parking facility that was authorized in the original permit in combination with the WQCP improvement project immediately north of the parking facility. These alternatives ranged from on-site access in and around the project site, to off-site access proposed on existing City streets. To select the public access alignment presented in the permit application, the City of South San Francisco, the applicant for the REST parking facility, their agents, Callander and Associates, the Commission's staff and the Design Review Board looked at the following factors:

- a. **Desirability of Being Adjacent to the Bay.** The McAteer-Petris Act and the *San Francisco Bay Plan* require, among other things, that maximum feasible public access be provided to and along the shoreline of San Francisco Bay. In general, a shoreside trail is more pleasing than a trail adjacent to a 4-lane roadway. In addition, the recommended Bay Trail route is adjacent to the shoreline in the proposed project location.

- b. **Significant Use Conflicts.** The McAteer-Petris Act and the *San Francisco Bay Plan* recognize that in some instances public access may conflict with certain land uses because of safety and security conflicts. While public access has been successfully integrated into other wastewater treatment facilities around the Bay Area, the Commission found in BCDC Permit No. 8-98 that access at this wastewater treatment plant would be unacceptable because of safety, security and liability problems. The applicants for the parking facility also believe that security and liability issues prevent the parking facility from providing shoreline access.
- c. **Bay Trail and Other Linkages.** One of the goals of the Commission and the Bay Trail Project is to provide continuous shoreline access around the Bay. The approved pedestrian bridge over Colma Creek and the South Airport Boulevard multi-use path, in combination with the proposed North Access Road and “peninsula finger” park are key elements in connecting the existing and proposed public access areas in the project’s vicinity.
- d. **Public Access and Impacts to Wetlands and Fish and Wildlife.** The McAteer-Petris Act and the *San Francisco Bay Plan* recognize that in some instances public access may conflict with sensitive fish and wildlife resources. Some healthy stands of wetland vegetation existing between and at the tips of the peninsulas “fingers,” and along the banks of Colma Creek and Bel Air Island, provide important habitat for fish and wildlife. Moreover, the open water areas and the adjacent shoreline attract many types of birds.

The Commission staff and the Design Review Board indicated that an on-site shoreline alternative was a preferred alignment because it brought the user closer to the Bay and away from the traffic on Airport Boulevard. However, a “Site Constraints” and “Comparison of Public Access Feasibility at Treatment Facilities,” prepared by Callander and Associates for the City and the applicant for the REST parking facility, shows that the constraints to public access at the WQCP are substantially greater than those at other treatment facilities, including the hazards associated with this water treatment plant, the limited space available for the plant facilities, the irregular shoreline, and the potential disturbance of wildlife. The permittees have also maintained that public access is incompatible with a long-term parking facility because a high degree of security in the parking lot is vital to the success of any parking facility and because of the difficult “finger” shoreline configuration of the site.

After significant consideration, on-site access was considered undesirable and the alternative inland alignment was selected. This was in large part because: (1) it would provide the much needed public access and Bay Trail connections through this difficult site, (2) adequate shoreline access to the water exists on the opposite shores, and (3) it would not have the potential to adversely affect the wildlife resources at the site. Because the alternative inland alignment would bring one away from the water and shoreline of San Francisco Bay and adjacent to major roadways carrying large volumes

of car and truck traffic, the Commission's staff and the Design Review Board believe the alignment proposed by the permittees and required in Special Condition II-B should be highly attractive and pleasing to the user.

The approved public access component for the WQCP includes, among other public benefits, a new Class I multi-use path along South Airport Boulevard, Class II public Access improvements on Bel Air Court, a public access staging area and a public access bridge over Colma Creek. These elements will connect with and enhance the public access proposed for the parking facility and the existing public access in the vicinity.

Public Access Improvements. As recommended by the Design Review Board (see discussion below), the public access improvements included in the project contain sidewalks and bike lanes on North Access Road and a new "peninsula finger" park which will provide a staging area for, or a destination spot along, the Bay Trail. The "peninsula finger" park will be developed for use as a public park, including landscaping, viewing areas, benches, picnic tables and public parking spaces, all of which will improve recreation and open space opportunities in the area.

A continuous shoreline access trail at the project site is infeasible. Public access on the peninsulas fingers would not provide continuous shoreline access because there is no access around the WQCP to the north. The parking facility will also require controlled access and a high level of patron and patron vehicle security. In addition, the restricted access will protect and enhance shoreline wildlife habitat. However, the park on the southern peninsula "finger" will provide high-quality, public open space with views of the shoreline while minimizing environmental impacts to the Bay and impacts to the operation of the parking facility. In addition, the sidewalk and bike lane improvements on North Access Road will provide an important segment of the public access facilities envisioned for the area. To ensure that the public access benefits contained in the project are constructed and maintained for public enjoyment, the Commission finds that Special Condition II-B, "Public Access", is needed. Special Condition II-B-2 also guarantees, consistent with the Bay Plan policy that requires public access to be permanent, that the public access on North Access Road controlled by the City of South San Francisco will be permanent and that the public has the right to use the "peninsula finger" park as long as the parking structure exists.

The permittees did not propose to, and need not restrict property for the spur trail portion of the trail located on SFIA property because that property is already required to be restricted for public access by BCDC Permit No. 2-96, which BCDC issued to the SFIA to authorize a range of activities associated with the implementation of the Airport's Master Plan. However, the City of South San Francisco, as a co-applicant in this permit, will restrict for public access purposes the portion of the spur trail that will be located on City-owned property.

There are concerns over the permittees' ability to provide the required public access improvements to the spur trail and a portion of the connection between the spur trail and the proposed park because the permittees do not possess a property interest in the portion of the spur trail that the permittees propose to improve, and because the per-

mittees do not possess a continuous property interest in the area located between the spur trail and the proposed park. In addition, the Airport believes that it may own part of the connecting property that Trux does not own, i.e., the property on which a bridge is located that spans San Bruno Channel. However, the Airport has thus far not been able to locate appropriate title documentation to resolve the question of ownership of this property.

The Airport has indicated by letter that it is willing to issue an encroachment permit to the permittees to allow them access to its property to install the sidewalk and other public access improvements that are required in this amended permit and to allow public access across the bridge, but such an encroachment permit would be essentially revocable at will by the Airport if the Airport needed to repair the bridge or otherwise needed the property for Airport-related purposes that the Airport believes are more important. The Airport has also stated that it does not issue encroachment permits without detailed architectural drawings that are normally not prepared until after BCDC has issued a permit but prior to the commencement of any work associated with the permitted activity.

The Airport has also indicated in discussions with Commission staff that it is in the process of working on a possible amendment to Permit No. 2-96 that could result in changes to the public access requirements of that permit that could include permanent easements in favor of the public to allow public access across the bridge on the Airport's property. The public access study being carried out as a condition of Permit 2-96, while not completed, appears to indicate that the North Access Road spur trail will not warrant a full Class I multi-use facility, and that a Class II facility may be adequate. The Airport also indicated that it would first need to resolve the title uncertainty about the ownership of the bridge property and that approval of such easements would likely be time-consuming and require Airport Commission and possibly Board of Supervisor's approval. The Airport, the City of South San Francisco, and Trux do not in any way question the appropriateness of the public access required by Permit 2-96 or proposed as part of this project. This project will speed up the installation of improvements for the spur trail and would provide an excellent park facility in the area.

As discussed above, the Commission finds that the permanency of the public access proposed as part of this project on the portion of North Access Road that is controlled by the Airport is covered in existing BCDC Permit No. 2-96 issued to the Airport. Further, because the Airport has, pursuant to BCDC Permit No. 2-96, assured that the public will be able to use a portion of North Access Road for public access purposes (until such time as the right-of-way is needed for other airport purposes), and because this permit includes provisions for a secondary connection to the "peninsula" ~~finger~~ park (Special Condition II-B-5); the Commission finds that dedication of the portion of public access on North Access Road and across the tidegate on Airport land is not needed.²

² The following section of findings has been moved to reflect that the amendments were issued *after* and separate from issuance of the originally-described and authorized project.

~~**Amendment Nos. One and Two.**~~ Amendment No. One granted the permittees a time extension, until October 31, 2001, for the completion of the bicycle/pedestrian Spur Trail along North Access Road, which allowed Trux Airline Cargo Services to proceed in opening the parking facility on July 6, 2001, as long as it agreed to finish the outstanding public access improvements within the extended time period. No progress was made on the Spur Trail and Trux requested another time extension. In December 2001, the City took over the administration of all public access improvements associated with the North Access Spur Trail. The City submitted documents from a traffic consultant that showed the proposed route for the bicycle/pedestrian trail, as shown in Exhibit C of the original permit, is not feasible because physical constraints along North Access Road make that trail configuration unsafe. Thereafter, Amendment No. Two granted a second extension as requested, until December 31, 2002, enabling the permittees to identify an alternative trail configuration that would be safe and would not cost more than the trail improvements authorized by the original permit. On September 6, 2002, BCDC staff met with the City and Trux to discuss variations of the trail configuration and routing. Agreement was reached during this meeting that: (1) the existing sidewalk between Airport Boulevard and the San Bruno Channel Bridge shall be widened to the limit of the City's property and create an 8-foot-wide sidewalk; (2) a raised 8-foot-wide sidewalk shall be installed across that bridge on the east side; (3) Class II bike lanes shall be provided on each side of North Access Road between Airport Boulevard and the San Bruno Channel bridge; and (4) a 10-foot-wide, multiuse path shall provide access for pedestrians and cyclist between the San Bruno Channel Bridge and the tidagate bridge with a transition into the entrance of "finger" park. Plans for this trail were submitted December 4, 2002, and a revised plan that incorporates comments provided by staff and the Airport's engineers was not resubmitted as of the date of this amended permit.

~~**Amendment No. Three (Revoked as Null and Void as of July 18, 2003).**~~ This amendment authorizes a time extension for the completion of the North Access Spur Trail, makes minor modifications of the public access description based on the September 6, 2002 meeting with the permittees, and adds language to Special Condition II-B-5 concerning the secondary connection for the Trail. The amendment is similar to activities qualifying as "minor repairs or improvements" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(F) and Regulation Section 10622(a).

The amended permit is consistent with the San Francisco Bay Plan and the McAteer-Petris Act in that the proposed modifications of the public access for the project will not adversely affect the Bay nor public access to and enjoyment of the Bay consistent with the project, because the public access configuration will provide access for bicycles and pedestrians, from Airport Boulevard through the "finger" park, as contemplated in the original permit.

The grant of a third time extension for the completion of the North Access Road Spur Trail, by October 15, 2003, is done in recognition of the additional time required for the permittees to obtain an Airport use permit with terms that are consistent with BCDC policies and to resolve certain safety issues. However, BCDC staff is cognizant that

twenty months have passed since the permittees have had the benefits of the project, and that the Airport's portion of the Spur Trail leading to Belle Air Island is now complete. Thus, the amended permit also requires the permittees to meet certain compliance milestones established herein to assure that each step toward completion of the project is expedited. The permittees must submit final construction drawings, approved by the Airport and BCDC, by no later than August 1, 2003, and commence construction by no later than September 1, 2003. The guarantee for the portion of the public access located on City property must also be submitted by August 1, 2003, and an approved, executed copy shall be submitted no later than October 15, 2003.

The modifications to the public access configuration discussed at the September 6, 2002 meeting have been amended into the permit. The changes are consistent with the Commission's policies, in that the amended permit continues to provide the maximum feasible public access consistent with the project because the revised Spur Trail configuration will still provide access for both bicycles and pedestrians from Airport Boulevard to the link with the Airport's portion of the trail.

The original permit referred to requirements of the Airport's permit (BCDC Permit No. 2-96) that provided a guarantee for the public access between the San Bruno Channel Bridge and the tidegate bridge. However, this requirement was inadvertently amended out of Permit No. 2-96 in 1999. With the discovery that the Airport is no longer required to permanently guarantee this portion of the public access route that links the City's trail along North Access Road and Trux's portion through the "finger" park, BCDC staff recognizes the increased importance of the secondary connection.

The amended permit also corrects the amount of public access for the "finger" park described in the original permit, from 67,350 square feet to 36,024 square feet, as explained in the Executive Director's letter of correction, dated April 2, 2002.

Amendment No. Three was revoked and became null and void on July 18, 2003 due to the Permittees' failure to provide an executed original of the amended permit within 60 days of issuance as outlined in a letter to the permittees from Steve McAdam, Deputy Director, dated July 11, 2003.

Amendment No. Four. The permittees requested Amendment No. Four to partially resolve Enforcement Case No. ER2000.097. The permittees did not build the public access consistent with the requirements of Special Condition II.B.4.c of the Permit as described below:

North Access Road South/North of San Bruno Channel: After issuance of the original Permit, the permittees determined that it was infeasible due to safety concerns to construct the proposed route of the 12 foot wide section of public access that was to have been located south of San Bruno Channel connecting North Access Road to the "finger" park (with a 4 foot wide sidewalk and two 4 foot wide bicycle lanes) as shown on Cross Section A, Exhibit C1. After many years of negotiation, an agreement was reached to relocate this section of trail to the north side of San Bruno Channel with a total width of 10 feet to be shared by pedestrians and cyclists, as shown on Cross Sec-

tion A, Exhibit C2. In 2007, prior to construction of this pathway, the permittees obtained staff review and approval of project plans, but they failed to also obtain an amendment to the authorization until May, 2016, despite having constructed it in 2010.

At 10 feet wide, this pathway provides two feet less than the originally required width of 12 feet. However, because there are ten contiguous feet of public access rather than three, four foot segments and because the pathway is no longer located next vehicular traffic and better connects to the other required public access areas, the overall public benefits of this rerouted public access pathway exceed the original public benefits.

This alternative route is located on property owned by San Francisco International Airport (City and County of San Francisco) and although the City of South San Francisco has a use permit to construct, use and maintain the public access pathway at this location, it cannot be permanently guaranteed. Even though it cannot be permanently guaranteed, it is required herein as public access and provides a vital link for the San Francisco Bay Trail by connecting other public access trails (required by BCDC Permit No. 1998.008 to the west and BCDC Permit No. 1984.016 to the east) to public shore parking and the "finger" park (both required by this permit).

North Access Road and North Access Road Bridge: During a site visit on March 10, 2016, staff discovered that the public access sidewalk and bikelanes required on North Access Road and North Access Road Bridge had not been constructed as required by the permit.

North Access Road Bridge: On the North Access Road Bridge, the original permit required the construction of a total width of 16 feet of public access consisting of two 4-foot wide sidewalks and two 4-foot wide bike lanes, as shown on Cross Section B, Exhibit C.1. Instead, the permittees have represented that they have constructed a total width of 15 feet, 1 inch of public access consisting of 7-foot, 3-inch and 7-foot, 10-inch bike lanes on each side of the Bridge, respectively, as shown on Cross Section B, Exhibit C2. However, a legal description prepared by MacLeod and Associates, dated December 11, 2015, describes the width of each bike lane as 7 feet.

At 15 feet, 1 inch, the bridge access is essentially one foot narrower than originally required. However, as constructed, the public benefit of the as-built condition exceeds the originally required condition for two reasons: (1) no pedestrian access is needed on the bridge since the pedestrian access that was to have been located south of the San Bruno Channel was relocated to the north side of the channel and (2) the bicycle access on each side of the bridge is at least 3 feet wider than the originally required four-foot width.

North Access Road: On the section of North Access Road from its intersection with South Airport Boulevard to the northern end of the North Access Road Bridge, the original permit required the construction of a total width of 25 feet of public access consisting of two 4-foot, 6-inch wide sidewalks and two 8-foot wide bike lanes, as

shown on Cross Section C, Exhibit C 1. Instead, the permittees constructed a total width of 18 feet of public access consisting of one 8-foot wide sidewalk and two 5-foot wide bike lanes, as shown on Cross Section C, Exhibit C 2.

At 18 feet, the as-built public access is 7 feet narrower than the required public access corridor. While a single 8-foot wide sidewalk may be more beneficial than two narrower sidewalks, the two, 5-foot wide bicycle lanes are less safe than two 8-foot wide bicycle lanes on a roadway with an 40-mile-per-hour speed limit. Therefore, the as-built condition on North Access does not satisfy the originally required public access benefit and, therefore, unlike the two other areas of nonconformity, the permit retains a modified version of the original requirement that requires the permittees to provide, by June 1, 2018, 7 more feet of public access, or an improvement that is of equal or greater benefit to the public, (Special Condition II.B.4.d). There is a 15-year long temporal loss of public benefit resulting from this diminished condition. It is nevertheless reasonable to provide the permittees with a two-year long period to develop a plan to provide the absent public access in light of the pending request for Amendment No. Five to authorize a second parking facility. If the permittees' plans proceed, they may construct the absent public access at the same time they are constructing the newly required public access. However, the permittees are expected to construct the absent public access by June 1, 2018, exclusive of the outcome of their pursuit of Amendment No. Five. The temporal loss of public access benefits shall be addressed as part of Enforcement Case No. ER2000.097.

Legal Instrument: A consequence of the permittees' failure to previously amend their permit to reflect the as-built public access conditions is that they have been unable to satisfy Special Condition II.B.2 (Public Access Permanent Guarantee). This is because absent an amendment, a survey of the as-built public access area would not match the public access area required by the Permit, which would in turn preclude the preparation of a document that staff could approve, or that the San Mateo County Recorder's Office would accept for recordation. The due date provided in Special Condition II.B.2 of the original permit to have dedicated the public access area prior to the use of the parking facilities authorized herein remains unchanged and no in-lieu access has been offered to offset the temporal loss resulting from the 15-year long period between the date of occupancy of the parking facility and the present. At the time of issuance of Amendment No. Four, the permittees have submitted a draft legal instrument for staff review. While this draft legal instrument has not gained staff approval, nor been recorded, this permit violation will be resolved as part of Enforcement Case ER2000.097.

While reviewing the legal description prepared by MacLeod and Associates, dated December 11, 2015, staff became aware that the original permit used an incorrect area of 7,500 square feet to describe the public access required on North Access Road. Amendment No. Four reflects a much more accurate area of approximately 25,355 square feet. The total area of the as-built access on North Access Road and North Access Road Bridge is approximately 21,263 square feet. The total area of the unbuilt public access on North Access Road is approximately 6,077 square feet (868 feet by 7 feet).

This correction does not result in the requirement to provide any more public access than originally required and it will facilitate the successful implementation of the requirement to permanently dedicate the public access on North Access Road, which will occur in two phases.

Revocation of Amendment No. Three: Amendment No. Three was revoked on July 18, 2003. However, it contained an important change—beyond an extension of completion time—that Amendment No. Four reinserts to correct the amount of public access for the “finger” park described in the original permit from 67,350 square feet to 36,024 square feet. The size of the public access park did not change at all, rather the 67,350 square feet area was a typographical error.

Amendment No. Four provides: (1) after the fact authorization for modifications to the originally required public access; (2) additional time for the permittees to complete the public access required on North Access Road; (3) supplementary Exhibits A-1, A-2, and C2 that reflect the as-built public access amenities unlike the prior exhibits, which show now obsolete layout and design but are retained for clarity and to assure an ongoing understanding of the nature and extent of changed conditions, and (4) provides after the fact authorization for a fence.

This amendment, as defined in Regulation Section 10601(b)(1), meets the standard for “minor repairs or improvements” for which the Executive Director may issue a nonmaterial amendment to a major permit pursuant to Government Code Section 66632(F) and Regulation Sections 10820 and 10822 because it authorizes the placement of small amounts of inert inorganic fill and substantial changes in use in the shoreline band that does not have a significant adverse effect on present or future possible maximum feasible public access to the Bay consistent with the project or on the environment. To the contrary, this amendment retains the equivalent amount and type of public access by providing an important Bay Trail connection in the city of South San Francisco, albeit in a different but better location than originally contemplated, and ensures the permittee will provide required but not yet provided public access within two years of issuance of Amendment No. Four and, thus, has a positive effect on present and future public access to the Bay.

Shoreline Appearance, Design and Scenic Views. Section 66602 of the McAteer-Petris Act requires that maximum feasible public access, including visual access to the Bay, consistent with a proposed project be provided. Section 66605.1 states, in part, “[t]he Legislature finds that in order to make San Francisco Bay more accessible for the use and enjoyment of people, the Bay shoreline should be improved, developed and preserved.”

The Bay Plan section on Appearance, Design and Scenic Views, which helps advise the Commission on the development of shoreline projects, finds, in part, “[m]uch too often, shoreline developments have not taken advantage of the magnificent setting provided by the Bay. Some shoreline developments are of poor quality or are inappropriate to a waterfront location. These include uses such as parking lots and some industrial structures....Probably the most widely enjoyed “use” of the Bay is simply viewing it -

from the shoreline, from the water, and from afar...[and] the Bay is a major visitor attraction for the tourist industry....As a world renowned scenic resource, the Bay is viewed and appreciated from many locations...[h]owever...there is still no general attention to maximizing views from streets and roads and to obtaining public view areas. In particular, along many urban waterfronts, man-made obstructions such as buildings, parking lots, utility lines, fences, billboards and even landscaping have eliminated or severely diminished views of the Bay and shoreline....One of the visual attractions of San Francisco Bay is the abundance of wildlife, particularly birds which are constantly moving around the Bay waters, marshes and mudflats in search of food and refuge.”

Hence, the Bay Plan includes policies on Appearance, Design and Scenic Views which state, 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....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. Local governments should be encouraged to eliminate inappropriate shoreline uses and poor quality shoreline conditions....Views to the Bay from vista points and from roads should be maintained by appropriate arrangements and heights of all development and landscaping between the view areas and the water.”

However, Section 66632.4 of the McAteer-Petris Act states: “[w]ithin any portion or portions of the shoreline band which shall be located outside the boundaries of water-oriented priority land uses, as fixed and established pursuant to Section 66611, the Commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the Bay and its shoreline.”

During the planning and the environmental review process, the staff expressed concern about the proposed project and its potential conflicts with the Commission’s policies on Appearance, Design and Scenic Views. However, the permittees chose to amend the City of South San Francisco’s *East of 101 Special Area Plan*, by: (1) changing the land use designation on the peninsulas “fingers” from open space to industrial; (2) modifying the shoreline setback policies in the plan; and (3) re-routing the Bay Trail from the base of the peninsulas “fingers” inland to South Airport Boulevard to accommodate the parking facility. The permittees believe that the site is better used for parking and airport service industry because of its location next to the airport, the need to expand airport services, and the adjacent, compatible land uses: a jet fuel storage facility, the WQCP, and a bus fueling facility.

The permittees have attempted to mitigate the adverse impacts of the proposed project on shoreline appearance, design and scenic views. To minimize the impact of the parking structure, it will be located on the same spot that is occupied by the existing building. Although the existing building blocks views to the Bay, the new parking structure will still have a footprint twice the size (70,000 square feet versus 30,000

square feet) and be nearly four times as high (80 feet versus 23 feet). To offset these view impacts, the permittees propose a “peninsula finger” park, complete with a ~~finger tip~~ viewing area at the tip of the peninsula, which will provide for Bay and shoreline views not now available to the public. Further, the permittees propose to clean up the unsightly debris on the peninsulas “fingers” (broken concrete, storage of used building materials, and miscellaneous debris) and screen the proposed parking areas with native landscaping.

The Commission finds that even with the mitigation measures proposed by the permittees, the parking facility will still have an adverse impact on visual access to the Bay, and will be inconsistent with the policies on Shoreline Appearance, Design and Scenic Views, especially those portions that discourage parking on the shoreline. Therefore, the Commission finds that Special Condition II-B-4-f, which requires additional landscaping adjacent to the new parking structure to help screen it from public viewing areas, is needed. The Commission also finds that the main public access component proposed in the project, the new “peninsula finger” park, is a very attractive element providing a new, exciting and valuable public access opportunity, and that the open space and fish and wildlife resources at the project site contribute substantially to the new public access experience. Because the open space and wildlife areas at the project site are an essential piece of the physical and visual public access experience, the Commission finds that Special Condition II-~~K~~I, which requires the open space and wildlife areas be dedicated for open space and wildlife areas in perpetuity is needed to ensure the public access benefits proposed with the project at this time will be maintained for future generations. Lastly, the Commission finds that the removal of large, unsightly concrete and miscellaneous rubble from the shoreline and on the peninsulas “fingers” as proposed by the permittees, and as required in Special Condition II-~~H~~J, will greatly improve the shoreline’s appearance.

In conclusion, the Commission finds that the project, as conditioned, is consistent with the Commission’s laws and policies on public access to and along the shoreline, and on appearance, design and scenic views of the San Francisco Bay and its shoreline, while recognizing the limitations contained in the McAteer-Petris Act.

- D. **Fish and Wildlife and Marshes and Mudflats.** As discussed in Section III-C “Public Access” above, wildlife functions were considered and the public access component of the project has been routed inland such that it will not have an unnecessary, adverse impact on the biological resources of the Bay. Furthermore, the permittees retained an experienced consulting firm to prepare biological assessments (August, 1996) for the project. The habitat at the project site is generally gravel and asphalt (and to a lesser extent, concrete and ruderal (weedy) vegetation on the shoreline) and coastal salt marsh, mudflats and open water below 5-foot Mean Sea Level. Coastal salt marsh is a highly productive assemblage of salt tolerant plants including cordgrass (*Spartina* spp.), pickleweed (*Salicornia* spp.), rushes (*Juncus* spp.), salt grass (*Disticla spicata.*), jaumea (*Jaumea carnosa.*) and gumplant (*Grindelia stricta.*). The tidelands adjacent to the peninsulas “fingers” support scattered areas of northern coastal salt marsh, which, together with the mudflats, provide highly sensitive habitats for a variety of birds

including grebes, cormorants, bay ducks, geese, coots, gulls, terns, pelicans, kingfishers, egrets, herons, willets, godwits, sandpipers and other shorebirds. Several sensitive plant and wildlife species have been identified by the United States Fish and Wildlife Service, which could occur within the project vicinity, notably the California Clapper Rail and the Salt Marsh Harvest Mouse. No sensitive plant or animal species have been identified on or immediately adjacent to the project site, however Clapper Rails are known to exist in the cordgrass marshes out further in the Bay near Bel Air Island. According to the biological assessments, access to the site is currently restricted, which benefits wildlife as it serves to prevent disturbance by humans and pets, and, similarly, the level of sensitivity of each peninsula finger increases toward the easterly tips of the peninsulas fingers, as the areas become more distant from human activities.

As stated earlier, the proposed inland alignment for the Bay Trail would be preferable biologically as it would continue to restrict human and pet access and prevent additional disturbance to wildlife in the adjacent marshes. The mitigation measures included in the project as proposed by the permittees to minimize adverse impacts on fish and wildlife include: (1) providing the proposed 30-foot landscaped setbacks at the tips of the peninsulas "fingers" and 5-foot landscaped setbacks along the length of the peninsulas "fingers;" (2) controlling project-generated storm water run-off; (3) shielding security lighting; (4) minimizing human activity at the ends of the peninsulas "fingers;" and (5) containing construction activities so that no marsh vegetation is lost (e.g. from erosion or siltation). The Commission finds that Special Conditions II-D, II-E, II-F, and II-H though II-LK requiring the creation of upland transitional habitat, the control of lighting, the prevention of construction and operational impacts, and the clean-up of the site after construction is complete are needed to ensure the protection of existing marshes and mudflats, as required by the Bay Plan policies on Fish & Wildlife and marshes and mudflats. Also, to ensure that the upland transitional habitat planting, as required in Special Condition II-H, is installed correctly, the installation shall be coordinated with the California Department of Fish and Game.

In addition, because the project would be located next to an important natural resource area, and because the parking on the peninsulas "fingers" is subject to a 30-year lease between the two co-permittees, the Commission finds it is appropriate to evaluate the impact of the project on the natural resources adjacent to the site. Therefore, the Commission finds that Special Condition II-K, which requires monitoring of the wildlife areas around the project site, would help provide important information to the Commission and the City in future decisions affecting the site and would allow for the correction of adverse impacts that may arise.

Therefore, as conditioned, the Commission finds that the project, including its mitigation measures to protect biological resources, is consistent with the Commission's laws and policies that protect fish and wildlife and marshes and mudflats.

- E. **Water Quality.** The McAteer-Petris Act recognizes that the RWQCB has the primary responsibility for coordination, control and enforcement of water quality in San Francisco Bay. The policies, decisions, advice and authority of these Boards should be the primary basis for the Commission to carry out its water quality responsibilities in the San Francisco Bay.

No new outfalls or discharge pipes emptying into the Bay are included in the project. However, the project will increase surface storm water flows by increasing impervious surfaces (the peninsulas “fingers” are currently unpaved) at the site. The permittees propose to mitigate this potential adverse impact on water quality by: (1) designing the surfaces so that storm water runoff is collected and sent to the adjacent WQCP for treatment before it is discharged in the Bay; (2) obtaining a Non-Point Discharge Elimination System (NPDES) general construction permit from the RWQCB, which requires that a project not contribute sedimentation, turbidity or hazardous pollutants in the Bay; (3) obtaining a Storm Water Pollution Prevention Permit from the RWQCB which includes Best Management Practices (BMPs) that reduce stormwater flows to acceptable levels, and (4) collecting and transporting all water runoff from the car wash facility to the WQCP for treatment before it is discharged in the Bay. The Commission finds that Section 1 of Special Condition II-C, “Water Quality,” is needed to ensure that the above measures are implemented, in keeping with the Commission’s water quality policies.

In addition, the permit application states, in part, “There is no suspected or known contamination within the project site. However, hydrocarbon contamination has occurred at the Shell storage facility adjacent and to the west of the project site...in 1983. The site considered in this application was not affected by the contamination.” Further, the environmental document for the project refers to the adjacent Shell Oil storage facility, the underground pipelines running to and from it, and the potential hazards the pipelines could present. The Commission finds that this potential for possible contamination at the site, combined with 1940’s use of the site for ship building and maintenance, creates a likely possibility that contaminants may be released or uncovered during construction of the project. To ensure that the permittees have taken all the preventative measures required by law to prevent the release of potential contaminants from the project site, the Commission finds that Section 2 of Special Condition II-C, “Water Quality,” is needed.

Therefore, as conditioned, the Commission finds that the project is consistent with the Commission’s laws and policies that protect water quality.

F. **Permit Amendments (through Material Amendment No. Five)**

1. **Amendment Nos. One and Two.** Amendment No. One granted the permittees a time extension, until October 31, 2001, for the completion of the bicycle/pedestrian Spur Trail along North Access Road, which allowed Trux Airline Cargo Services to proceed in opening the parking facility on July 6, 2001, as long as it agreed to finish the outstanding public access improvements within the extended time period. No progress was made on the Spur Trail, and Trux requested another time extension. In

December 2001, the City took over the administration of all public access improvements associated with the North Access Spur Trail. The City submitted documents from a traffic consultant that showed the proposed route for the bicycle/pedestrian trail, as shown in Exhibit C of the original permit, is not feasible because physical constraints along North Access Road make that trail configuration unsafe.

Amendment No. Two granted a second extension as requested, until December 31, 2002, enabling the permittees to identify an alternative trail configuration that would be safe and would not cost more than the trail improvements authorized by the original permit. On September 6, 2002, BCDC staff met with the City and Trux to discuss variations of the trail configuration and routing. Agreement was reached during this meeting that: (1) the existing sidewalk between Airport Boulevard and the San Bruno Channel Bridge shall be widened to the limit of the City's property and create an 8-foot-wide sidewalk; (2) a raised 8-foot-wide sidewalk shall be installed across that bridge on the east side; (3) Class II bike lanes shall be provided on each side of North Access Road between Airport Boulevard and the San Bruno Channel bridge; and (4) a 10-foot-wide, multiuse path shall provide access for pedestrians and cyclist between the San Bruno Channel Bridge and the tidegate bridge with a transition into the entrance of "peninsula" park. Plans for this trail were submitted December 4, 2002, and a revised plan that incorporates comments provided by staff and the Airport's engineers was not resubmitted as of the date of this amended permit.

2. **Amendment No. Three (Revoked as Null and Void as of July 18, 2003).** This amendment authorizes a time extension for the completion of the North Access Spur Trail, makes minor modifications of the public access description based on the September 6, 2002 meeting with the permittees, and adds language to Special Condition II-B-5 concerning the secondary connection for the Trail. The amendment is similar to activities qualifying as "minor repairs or improvements" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(F) and Regulation Section 10622(a).

The amended permit is consistent with the San Francisco Bay Plan and the McAteer-Petris Act in that the proposed modifications of the public access for the project will not adversely affect the Bay nor public access to and enjoyment of the Bay consistent with the project, because the public access configuration will provide access for bicycles and pedestrians, from Airport Boulevard through the peninsula park, as contemplated in the original permit.

The grant of a third time extension for the completion of the North Access Road Spur Trail, by October 15, 2003, is done in recognition of the additional time required for the permittees to obtain an airport use permit with terms that are consistent with BCDC policies and to resolve certain safety issues. However, BCDC staff is cognizant that twenty months have passed since the permittees have had the benefits of the project, and that the airport's portion of the Spur Trail leading to Belle Air Island is now complete. Thus, the amended permit also requires the per-

mittees to meet certain compliance milestones established herein to assure that each step toward completion of the project is expedited. The permittees must submit final construction drawings, approved by the Airport and BCDC, by no later than August 1, 2003, and commence construction by no later than September 1, 2003. The guarantee for the portion of the public access located on City property must also be submitted by August 1, 2003, and an approved, executed copy shall be submitted no later than October 15, 2003.

The modifications to the public access configuration discussed at the September 6, 2002 meeting have been amended into the permit. The changes are consistent with the Commission's policies, in that the amended permit continues to provide the maximum feasible public access consistent with the project because the revised Spur Trail configuration will still provide access for both bicycles and pedestrians from Airport Boulevard to the link with the Airport's portion of the trail.

The original permit referred to requirements of the Airport's permit (BCDC Permit No. 2-96) that provided a guarantee for the public access between the San Bruno Channel Bridge and the tidegate bridge. However, this requirement was inadvertently amended out of Permit No. 2-96 in 1999. With the discovery that the Airport is no longer required to permanently guarantee this portion of the public access route that links the City's trail along North Access Road and Trux's portion through the "peninsula" park, BCDC staff recognizes the increased importance of the secondary connection.

The amended permit also corrects the amount of public access for the "peninsula" park described in the original permit, from 67,350 square feet to 36,024 square feet, as explained in the Executive Director's letter of correction, dated April 2, 2002.

It is important to note that Amendment No. Three was revoked and became null and void on July 18, 2003 due to the permittees' failure to provide an executed original of the amended permit within 60 days of issuance as outlined in a letter to the permittees from Steve McAdam, Deputy Director, dated July 11, 2003.

3. **Amendment No. Four.** The permittees requested Amendment No. Four to partially resolve Enforcement Case No. ER2000.097. The permittees did not build the public access consistent with the requirements of Special Condition II.B.4.c of the permit, as amended in Amendment No. Two, as described below:

North Access Road South/North of San Bruno Channel: After issuance of the original permit, the permittees determined that it was infeasible due to safety concerns to construct the proposed route of the 12-foot-wide section of public access that was to be located south of San Bruno Channel connecting North Access Road to the "peninsula" park (with a 4-foot-wide sidewalk and two 4-foot-wide bicycle lanes) as shown on Cross Section A, Exhibit C1. After many years of negotiation, an agreement was reached to relocate this section of trail to the north side of San Bruno Channel with a total width of 10 feet to be shared by pedestrians and cyclists, as shown on Cross Section A, Exhibit C2. In 2007, prior to construction of this pathway, the

permittees obtained staff review and approval of project plans, but they failed to obtain an amendment to the authorization until May 2016, despite having constructed it in 2010.

At 10 feet wide, this pathway provides two feet less than the originally-required width of 12 feet. However, because there are ten contiguous feet of public access rather than three, four-foot segments and because the pathway is no longer located next to vehicular traffic and better connects to the other required public access areas, the overall public benefits of this rerouted public access pathway exceed the original public benefits.

This alternative route is located on property owned by San Francisco International Airport (City and County of San Francisco) and although the City of South San Francisco has a use permit to construct, use and maintain the public access pathway at this location, it cannot be permanently guaranteed. Even though it cannot be permanently guaranteed, it is required herein as public access and provides a vital link for the San Francisco Bay Trail by connecting other public access trails (required by BCDC Permit No. 1998.008.00 to the west and BCDC Permit No. 1984.016.00 to the east) to public shore parking and the “peninsula” park (both required by this amended permit).

North Access Road and North Access Road Bridge: During a site visit on March 10, 2016, staff discovered that the public access sidewalk and bike lanes required on North Access Road and North Access Road Bridge had not been constructed as required by the permit through Amendment No. Two.

North Access Road Bridge: On the North Access Road Bridge, the original permit required the construction of a total width of 16 feet of public access consisting of two 4-foot-wide sidewalks and two 4-foot-wide bike lanes, as shown on Cross Section B, Exhibit C1. Instead, the permittees have represented that they have constructed a total width of 15-feet, 1-inch of public access consisting of 7-foot, 3-inch and 7-foot, 10-inch bike lanes on each side of the Bridge, respectively, as shown on Cross Section B, Exhibit C2. However, a legal description prepared by MacLeod and Associates, dated December 11, 2015, describes the width of each bike lane as 7 feet.

At 15 feet, 1 inch, the bridge access is essentially one foot narrower than originally required. However, as constructed, the public benefit of the as-built condition exceeds the originally-required condition for two reasons: (1) no pedestrian access is needed on the bridge since the pedestrian access that was to have been located south of the San Bruno Channel was relocated to the north side of the channel and (2) the bicycle access on each side of the bridge is at least 3 feet wider than the originally-required four-foot-width.

North Access Road: On the section of North Access Road from its intersection with South Airport Boulevard to the northern end of the North Access Road Bridge, the original permit required the construction of a total width of 25 feet of public access consisting of two 4-foot, 6-inch-wide sidewalks and two 8-foot-wide bike lanes, as shown on Cross Section C, Exhibit C-1. Instead, the permittees constructed a total width of 18 feet of public access consisting of one 8-foot-wide sidewalk and two 5-foot-wide bike lanes, as shown on Cross Section C, Exhibit C-2.

At 18 feet, the as-built public access is 7 feet narrower than the required public access corridor. While a single 8-foot-wide sidewalk may be more beneficial than two narrower sidewalks, the two, 5-foot-wide bicycle lanes are less safe than two 8-foot-wide bicycle lanes on a roadway with a 40-mile-per-hour speed limit. Therefore, the as-built condition on North Access does not satisfy the originally-required public access benefit and, therefore, unlike the two other areas of nonconformity, the permit retains a modified version of the original requirement that requires the permittees to provide, by June 1, 2018, 7 more feet of public access, or an improvement that is of equal or greater benefit to the public, (Special Condition II.B.4.d). There is a 15-year-long temporal loss of public benefit resulting from this diminished condition. It is nevertheless reasonable to provide the permittees with a two-year-long period to develop a plan to provide the absent public access in light of the pending request for Amendment No. Five to authorize a second parking facility. If the permittees' plans proceed, they may construct the absent public access at the same time they are constructing the newly-required public access. However, the permittees are expected to construct the absent public access by June 1, 2018, exclusive of the outcome of their pursuit of Amendment No. Five. The temporal loss of public access benefits shall be addressed as part of Enforcement Case No. ER2000.097.

Legal Instrument: A consequence of the permittees' failure to previously amend their permit to reflect the as-built public access conditions is that they have been unable to satisfy Special Condition II.B.2 (Public Access Permanent Guarantee). This is because absent an amendment, a survey of the as-built public access area would not match the public access area required by the Permit, which would in turn preclude the preparation of a document that staff could approve, or that the San Mateo County Recorder's Office would accept for recordation. The due date provided in Special Condition II.B.2 of the original permit to have dedicated the public access area prior to the to the use of the parking facilities authorized herein remains unchanged and no in lieu access has been offered to offset the temporal loss resulting from the 15-year-long period between the date occupancy of the parking facility and the present. At the time of issuance of Amendment No. Four, the permittees have submitted a draft legal instrument for staff review. While this draft legal instrument has not gained staff approval, nor been recorded, this permit violation will be resolved as part of Enforcement Case ER2000.097.

While reviewing the legal description prepared by MacLeod and Associates, dated December 11, 2015, staff became aware that the original permit used an incorrect area of 7,500 square feet to describe the public access required on North Access Road. Amendment No. Four reflects a much more accurate area of approximately 25,355 square feet. The total area of the as-built access on North Access Road and North Access Road Bridge is approximately 21,263 square feet. The total area of the unbuilt public access on North Access Road is approximately 6,077 square feet (868 feet by 7 feet).

This correction does not result in the requirement to provide any more public access than originally required and it will facilitate the successful implementation of the requirement to permanently dedicate the public access on North Access Road, which will occur in two phases.

Revocation of Amendment No. Three: Amendment No. Three was revoked on July 18, 2003. However, it contained an important change - beyond an extension of completion time - that Amendment No. Four reinserts to correct the amount of public access for the "peninsula" park described in the original permit from 67,350 square feet to 36,024 square feet. The size of the public access park did not change at all; rather the 67,350 square feet area was a typographical error.

Amendment No. Four provides: (1) after-the-fact authorization for modifications to the originally-required public access; (2) additional time for the permittees to complete the public access required on North Access Road; (3) supplementary Exhibits A-1, A-2, and C2 that reflect the as-built public access amenities unlike the prior exhibits, which show now obsolete layout and design but are retained for clarity and to assure an ongoing understanding of the nature and extent of changed conditions; and (4) after-the-fact authorization for a fence.

This amendment, as defined in Regulation Section 10601(b)(1), meets the standard for "minor repairs or improvements" for which the Executive Director may issue a nonmaterial amendment to a major permit pursuant to Government Code Section 66632(F) and Regulation Sections 10820 and 10822 because it authorizes the placement of small amounts of inert inorganic fill and substantial changes in use in the shoreline band that does not have a significant adverse effect on present or future possible maximum feasible public access to the Bay consistent with the project or on the environment. To the contrary, this amendment retains the equivalent amount and type of public access by providing an important Bay Trail connection in the city of South San Francisco, albeit in a different but better location than originally contemplated, and ensures the permittee will provide required but not yet provided public access within two years of issuance of Amendment No. Four and, thus, has a positive effect on present and future public access to the Bay.

4. **Material Amendment No. Five.** The subject of this amendment is the parking structure expansion and associated improvements, discussed in detail below.
- 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, port, airport, public facility, wildlife area, or other use, except in cases where public access would be clearly inconsistent with the project because of public safety considerations or significant use conflicts, including unavoidable, significant adverse effects on Bay natural resources. In these cases, in lieu access at another location preferably near the project should be provided.” Policy 7 states, in part, “public access improvements...should be designed and built to encourage... 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....” 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. The project site includes four small peninsulas projecting into the Bay (a.k.a., San Bruno Channel). A fifth peninsula is located north of the project site at the Water Quality Control Plant (WQCP). The permit, as amended through Amendment No. Four, authorizes vehicle parking at and inland of the three middle peninsulas, and in a parking garage, and requires that the southernmost peninsula be used as a public park (a.k.a, the “peninsula park”) with dedicated public parking spaces.

Other public access in the project vicinity, and required through various BCDC permits, includes:

- A San Francisco Bay Trail spur on North Access Road between its intersection with South Airport Boulevard and North Access Road (four-lane) Bridge, and a pathway connection located south of the parking garage, connecting the North Access Road Bridge to the tide gate bridge, leading to the “peninsula” park, as required herein;

- A Bay Trail path on North Access Road located east of the parking facility, from the eastern tip of the “peninsula” park via a pedestrian bridge to the arrowhead-shaped peninsula to the east of the site (commonly known as Belle Aire Island or Sam Trans Island), and a Bay Trail entrance adjacent to U.S. Highway 101 Northbound on-ramp at the intersection of South Airport Boulevard and the south fork of North Access Road, as required in BCDC Permit No. 1996.002.06; and
- The Bay Trail along South Airport Boulevard from its intersection with North Access Road to the bridge located between Beacon Street and San Marco Way, and the Bay Trail on Belle Aire Road and across the Colma Creek bridge located at the end of Belle Aire Road, as required in BCDC Permit No. 1998.008.05. (Although the permit requires a Class I bicycle and pedestrian path along South Airport Boulevard, the City of South San Francisco does not allow bicycles on sidewalks and, thus, cyclists must use the street, which does not have dedicated lanes.)

A planned—not developed—Bay Trail alignment is located at the project site immediately west of the peninsulas continuing north and along the perimeter of the WQCP and ultimately connecting to the Colma Creek Bridge, located at the end of Belle Aire Road (Exhibit B). Bus transit is also available nearby on South Airport Boulevard and North Access Road.

Parking Garage Project. The project involves the construction of a 72,053-square-foot expansion (of which approximately 11,362 square feet is within the Commission’s 100-foot shoreline band) of the parking garage authorized for development in the original permit and associated activities, including demolition, material extraction, and landscaping. The expanded structure will be built at an existing surface parking area to accommodate 1,530 vehicles, approximately doubling the existing garage footprint and increasing the parking facility’s total capacity by approximately 63 percent, from 1,901 spaces to 3,095 spaces. According to the permittees, the daily average of cars entering and exiting the existing facility is, respectively, 450 and 448. The facility operates 24 hours a day, 7 days a week, with shuttles to and from the airport. Vehicles enter and exit the facility at a single location at North Access Road and must cross an approximately 130-foot section of the Bay Trail, located on the sidewalk and street, at North Access Road (a secondary shuttle entrance is located at the southeast corner and is rarely used). With the project authorized in Material Amendment No. Five, the daily average will be 750 cars entering and 748 cars exiting; the location of the entrance/exit will remain unchanged. The increased use will generate more traffic entering and exiting the parking facility and within the surrounding area, thus increasing the potential for conflict between vehicles and pedestrians and cyclists, thereby affecting public use of and access to the shoreline and the Bay Trail.

Public Access. The permittees will provide the following public access improvements at and near the project site, as shown on Exhibit D:

- Installation of traffic calming rumble strips, stop signs, and stop limit lines where the parking garage main entry/exit driveways meet a sidewalk and bike lane;
- Establishment of Class II bicycle lanes along the east and west sides of South Airport Boulevard between the south fork of North Access Road and Utah Avenue and green “skip” painting at adjoining driveways;
- Creation of high-visibility barrier-free crosswalks (ADA-compliant) curb ramps and pedestrian islands on South Airport Boulevard (at intersections with San Marco Way, Beacon Street, Belle Aire Road and North Access Road) and Belle Aire Road;
- Green pavement painting of Class II bicycle lanes on Belle Aire Road;
- Re-grading the entrance to the Bay Trail at the Belle Aire Road cul-de-sac for easier bicycle transition, and entry signage to the Colma Creek bridge; and
- Installation of up to 15 Bay Trail wayfinding signs to improve safety and movement for pedestrians and bicyclists within the project vicinity.

The traffic calming measures will be maintained by Park SFO LLC, while the bicycle lanes, crossings and other Bay Trail improvements will be maintained by the City of South San Francisco. The combination of these improvements is expected to greatly improve pedestrian and bicycle transportation in an area that is currently dominated by vehicular traffic. In addition, it will provide a safe link between two remote shoreline access areas: the arrow-shaped peninsula to the east of project site (commonly known as Belle Aire Island) and the Colma Creek bridge located at the end of Belle Aire Road. Special Conditions II-B-4-g through II-B-4-l require the installation of the public access improvements described above, and are included to offset the public access impacts of increased vehicular traffic associated with the parking garage expansion authorized in Material Amendment No. Five. Special Condition II-A-3-c requires final plan review for those public access improvements. Special Condition II-G requires certification of contractor review of the amended permit and final plans to ensure that the public access improvements are constructed properly. Special Condition II-B-5 has been modified to specify the maintenance of the required improvements.

At the early stages of the permit application process for Material Amendment No. Five, the permittees examined the potential for developing the planned Bay Trail alignment at the project site located west of the small peninsulas and also along the perimeter of the individual peninsulas. The permittees, however, found that the issues constraining development of this alignment are the same as those making such improvements infeasible in 1998, when the original permit was issued. According to the permittees, an alignment at the base of the

peninsulas would result in “continual crossing of...bicycle and pedestrian traffic...and...car traffic...[that] would be unacceptable from a safety standpoint, ” and that an alignment along the perimeter of the peninsulas would “undermin[e] the financial viability of the enterprise.” In response, the Commission staff requested that the permittees explore alternative inland alignments located west of the parking facility leading north towards the WQCP shoreline. However, it was found that these alignments would dead-end at the WQCP site, as the site remains closed to the general public. Further, according to the WQCP staff, it is unknown as to when a connection through the WQCP will be developed in light of facility operational conflicts and potential health hazards to the public. Consequently, the Commission staff determined that shoreline access was not feasible through or in the immediate vicinity of the subject project site due to operational considerations, public safety concerns, and uncertainty about the establishment of future connections to and through the WQCP facility.

Instead, the permittees proposed public access improvements that will provide immediate benefits to the public rather than benefits to be secured at an indeterminate time in the future. The public access improvements, which are required herein, were developed in collaboration with the Commission staff and members of the City of South San Francisco Bicycle and Pedestrian Advisory Committee. The Commission staff determined that these improvements did not warrant review by the Commission’s Design Review Board because the proposed improvements involve enhancements to existing facilities for bicycle and pedestrian safety and circulation, which are designed to meet City design standards.

Similar Permitted Projects. 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—two of which are summarized in Table 1 below. In 1998, the Commission permitted the construction of the 70,000-square-foot parking garage presently located at the project site, which has a similar footprint to that of the proposed structure (approximately 72,053 square feet). The originally-permitted project provided a 36,024-square-foot (area corrected in Amendment No. Four) public park at the site’s southernmost peninsula, eight dedicated public parking spaces, a sidewalk and Class II bike lanes along portions of North Access Road, an additional public access connection, signage, site furnishings and landscaping. In 2000, the Commission issued BCDC Permit No. 1999.008.00 for the construction of a portion of an approximately 39,364-square-foot hotel parking structure located at Oyster Point in the City of South San Francisco. The project provided a 37,500-square-foot public access area, a 67,500-square-foot view corridor, an 800-foot-long public path, six public parking spaces, signage, landscaping, furnishings and other amenities.

BCDC Permit/BCDC Permit Application	Authorized/Proposed Project	Required/Proposed Public Access
Park SFO Parking Structure Permit No. 1998.011.00	A 70,000-square-foot parking structure and surface parking, partly in the 100-foot shoreline band.	A 36,024-square-foot ² public access park, eight public parking spaces, bicycle and pedestrian Bay Trail connections, signage, landscaping, furnishings and other amenities.
Oyster Point Hotel Parking Structure ¹ Permit No. 1999.008.00	A 39,364-square-foot hotel parking structure, partly in the 100-foot shoreline band.	A 37,500-square-foot public access area, a 67,500-square-foot view corridor, an 800-foot-long public path, six public parking spaces, signage, landscaping, furnishings and other amenities.
Park SFO Expansion Project Permit No. 1998.011.05	An approximately 72,053-square-foot parking structure expansion, partly in the 100-foot shoreline band.	Traffic calming measures, 0.5 miles of Class II bike lanes, green painting of existing Class II bike lanes, new and improved pedestrian crossings, improved Bay Trail entrance and signage.

Table 1. Summary of BCDC-Approved Projects and the Project (shown in bold)

¹ The authorized hotel parking structure was never built.

² The original permit required 67,350 square feet of public access park. The area was corrected to 36,024 square feet in Amendment No. Four.

As shown in the table above, the public access improvements are significantly different in character from the two other examples in that they do not provide open space or park-like features. However, they do provide more than a half-mile of bike lane improvements, crosswalks and signage, resulting in safe, non-motorized facilities that will vastly improve public access in a currently auto-dominated commercial and industrial neighborhood.

The Commission finds that the project, as conditioned, provides the maximum feasible public access consistent with the project.

- b. **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 tribu-

tary 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... 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...and areas along roads that provide good views of the Bay for travelers....”

Public views near the project site towards the Bay (San Bruno Channel) are possible from the “peninsula” park, required in the existing permit, and from the section of North Access Road located east of the site. From these locations, the expansion structure will be visible but will not block public views of the Bay and, in fact, be farther away from public viewing areas than the existing garage authorized in the original permit. There are no existing views of the Bay from the portion of North Access Road located west of the site; the garage authorized in the original Commission permit as well as vegetation, fencing and cars block public views to the Bay from that location. Therefore, impacts to public views associated with the project authorized in Material Amendment No. Five will be nominal. Special Condition II-A-3-c requires final plan review to ensure that the project is built in conformance with the authorization herein. As such, the Commission finds that the project does not affect public views of the Bay.

F. G. **Review Boards**

1. **Engineering Criteria Review Board.** Because the project authorized herein involves no significant structures on Bay fill, the Engineering Criteria Review Board did not review the project.
2. **Design Review Board.** The Design Review Board reviewed the original project at its December 8, 1997, and March 9, 1998 meetings. At its first review, the Board tried to find the best possible public access route through the project site. The Board stated that once it was convinced that on-site access was infeasible, the proposed alternative in-land alignment would be acceptable provided it included adequate public access staging areas, provided a good transition from the cul-de-sac to the public access path, and paid special attention to the bridge, the bridge landings, and the 30-foot-wide Class I path along South Airport Boulevard, because these features should be “very, very attractive and pleasing to the user.” At the second review, on March 9, 1998, after the Board concluded that on-site access was infeasible and undesirable, the Board directed staff and the permittees to explore a two bridge option which would connect Bel Air Island, the tip of the peninsula and the north side of Colma Creek. At the Board’s request, the staff and the permittees studied the two-bridge option and found it could be feasible from a construction standpoint and would bring the public closer to the Bay. They also found that it would be undesirable because it would have a greater potential for wildlife impacts, would create a bigger maintenance burden, and it would not maximize the connections to the existing public access improvements. The Board concluded that, while it would

rather see the public along the water's edge and not wandering along the City streets, if the two bridge alternative was not desirable it would support the alternative in-land alignment. The Board also noted that this was a very difficult shoreline to begin with, and the existing and proposed land uses make it even more difficult to get the public to and along the shoreline. If, in the future, the land uses change, the Board would like to see the access closer to the water and a possible wildlife sanctuary on and around the peninsulas "~~fingers~~" located between the WQCP and the new "peninsula finger" park.

The Commission staff determined that the project authorized in Material Amendment No. Five did not warrant review by the Design Review Board because the improvements involve enhancement to existing facilities for bicycle and pedestrian safety and circulation, which would need to meet City design standards.

- G. H. **Environmental Review.** Acting as lead agency pursuant to the California Environmental Quality Act (CEQA), the City of South San Francisco certified a Mitigated Negative Declaration for the originally authorized project on April 22, 1998. For the project authorized in Material Amendment No. Five, the City of South San Francisco Planning Commission adopted a Mitigated Negative Declaration on March 6, 2014. The Planning Commission evaluated the potential impacts of constructing the parking structure expansion, and mitigation measures were made a condition of the approval of the project. An appeal was filed on the project, and the matter was considered by the City of South San Francisco City Council. The City Council upheld the Planning Commission's decision, and adopted the Mitigated Negative Declaration on June 11, 2014.
- H. I. **Conclusion.** For all of the above reasons, the benefits of the proposed project clearly exceed the detriment of the loss of water areas and the project will provide the maximum feasible public access to the Bay and its shoreline. Therefore, the project is consistent with the *San Francisco Bay Plan*, the McAteer-Petris Act, the Commission's Regulations, and the Commission's amended management program for the San Francisco Bay segment of the California coastal zone.

IV. Standard Conditions

- A. **Permit Execution.** This amended permit shall not take effect unless the permittee(s) 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 permittee(s) 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 permittee(s)/ 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 permittee(s) 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 permittee(s) 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 permittee(s) 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 permittee(s) 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 permittee(s) 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 permittee(s), its 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 permittee(s), its 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 permittee(s) shall immediately retrieve and remove such material at its 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 permittee(s) shall contact Commission staff to confirm current restricted periods for construction.