

San Francisco Bay Conservation and Development Commission

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March 1, 2019

TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
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SUBJECT: **Staff Recommendation for the Catellus Alameda Development LLC and Successor Agency to the Community Improvement Commission of the City of Alameda's Application for BCDC Permit No. 2018.004.00 for the Alameda Landing Waterfront Project**
(For Commission consideration on March 7, 2019)

Recommendation Summary

The staff recommends **approval with conditions** of BCDC Permit Application No. 2018.004.00 for the Alameda Landing Waterfront project, which will authorize the following activities:

- (1) Removal of existing warehouses, demolition of a portion of an existing concrete wharf and backfilling with soil, and conducting wharf and pile repairs;
- (2) Construction of approximately 50 residential units within the Commission's jurisdiction, out of a total of up to 400 residential units, and 5,000 square feet of retail and/or commercial uses, with associated utilities and roadways;
- (3) Construction of an approximately 4.60-acre waterfront park on top of and adjacent to the existing wharf, including a 1,475-foot-long Bay Trail segment, promenade, plaza, two pocket parks, pedestrian sidewalk, public parking, site furnishings, and a dock system consisting of a public dock, kayak launch platform, and water taxi launch platform; and

- (4) Construction of an approximately 3,575-square-foot portion of an approximately 0.83-acre public access corridor (“Western Greenway”), including a 12-foot-wide trail and a portion of a residential road.

The project will result in an increase of Bay fill of approximately 4,594 square feet and 72 cubic yards. The project will result in the creation of approximately 5.43 acres of new public access areas (Tables 1 and 2) and five dedicated view corridors.

Table 1. New Public Access Areas (Acres)

Type of Public Access	Within BCDC’s Jurisdiction (Acres)	Outside BCDC’s Jurisdiction (Acres)	Total (Acres)
Waterfront Park	3.76	0.84	4.60
Waterfront Promenade	3.01	0	3.01
Waterfront Plaza	0.51	0	0.51
Public Dock	0.11	0	0.11
Pocket Parks (2)	0.12	0	0.12
Fifth Street Entry, Parking, and Circulation	.006	0.84	0.85
Western Greenway	0.08	.75	0.83
Total Project	3.84	1.59	5.43

Table 2. New Public Access Areas (Square Feet)

Type of Public Access	Within BCDC’s Jurisdiction (sf)	Outside BCDC’s Jurisdiction (sf)	Total (sf)
Waterfront Park	163,705	36,529	200,234
Waterfront Promenade	131,286	0	131,286
Waterfront Plaza	22,311	0	22,311
Public Dock	4,594	0	4,594
Pocket Parks (2)	5,264	0	5,264
Fifth Street Entry, Parking, and Circulation	250	36,529	36,779
Western Greenway	3,575	32,809	36,384
Total Project	167,280	69,338	236,618

Staff Note

The Commission held a public hearing for the Alameda Landing Waterfront Project on February 21, 2019. Among the issues raised in the presentations by the staff and applicants were (1) the timing and phasing for construction and completion of public access areas proposed as part of the project, and (2) adaptation measures proposed to protect public access areas from flooding associated with sea level rise. The applicants have revised their proposal to some degree on both of these items, and the staff has also recommended that approval of the project include Special Conditions related to these issues.

For the timing and phasing for construction and completion of public access areas proposed as part of the project, *see pages 25-26* of this recommendation.

For adaptation measures proposed to protect public access areas from flooding associated with sea level rise, *see pages 33-35* of this recommendation.

Staff Recommendation

The staff recommends that the Commission adopt the following resolution:

I. Authorization

- A. Subject to the conditions stated below, the permittees, Catellus Alameda Development LLC and the Successor Agency to the Community Improvement Commission of the City of Alameda, are granted permission to do the following:

Location: In the Bay and within the 100-foot shoreline band, at 300 A Avenue, in the City of Alameda, Alameda County.

In the Bay:

1. **Wharf and Pile Repairs.** Conduct wharf repairs over an approximately 91,571-square-foot area and repair approximately 190 piles, resulting in a net increase of approximately 72 cubic yards of Bay fill;
2. **Public Dock.** Construct, use, and maintain in-kind an approximately 4,594-square-foot dock system consisting of a 6-foot-wide gangway, fixed pier with handrails, and floating dock with an approximately 1,381-square-foot area for a public dock, an approximately 1,092-square-foot area for a water shuttle launch, and an approximately 1,080-square-foot area for a kayak launch;
3. **Waterfront Park.** Construct, use, and maintain in-kind an approximately 92,028-square-foot (2.11-acre) portion of an approximately 200,234-square-foot (4.6-acre) waterfront park on top of an existing concrete wharf structure, consisting of:

- a. **Waterfront Promenade.** An approximately 77,500-square-foot (1.78-acre) portion of an approximately 131,286-square-foot (3.01-acre), 90-foot-wide waterfront promenade (the remainder of which is within the 100-foot shoreline band); and
 - b. **Waterfront Plaza.** An approximately 14,528-square-foot (0.33-acre) portion of an approximately 22,311-square-foot (0.51-acre) waterfront plaza (the remainder of which is within the 100-foot shoreline band).
4. **Waterfront Park Amenities.** Construct, use, and maintain in-kind public access and other features on and adjacent to the waterfront promenade and plaza, including portions of an approximately 1,475-linear-foot, minimum 18-foot-wide trail, approximately 42-inch-high railings, benches and seating, lawn areas, public artwork, portions of pergola shade structures, trellis and shade structures, bicycle lockers, bicycle racks, exercise stations, recreational courts and outdoor games, enclosed kayak storage, a fish cleaning station, picnic areas with tables and barbeque pits, interpretive signage, telescopes, water shuttle signage, an emergency vehicle turnaround area, approximately 42,000-47,000 square feet of plantings, and low walls associated with planting areas; and
 5. **Interface with Neighboring Property.** Construct, use, and maintain in-kind a 73-square-foot portion of a 215-square-foot, 5-foot-wide grate cover (the remainder of which is within the 100-foot shoreline band), a railing, and a 7-foot-high transparent (picket-style or similar) fence at the western edge of the waterfront promenade adjacent to the neighboring Bay Ship & Yacht property.

Within the 100-foot shoreline band:

1. **Site Preparation Activities.** Demolish two 72,000-square-foot warehouse buildings, and cut and remove an approximately 94,694-square-foot portion of an existing wharf deck and backfill with soil;
2. **Geotechnical Improvements.** Construct a Deep Soil Mix (DSM) buttress and facing wall at and adjacent to the wharf deck cut line;
3. **Residential Development.** Construct, use, and maintain in-kind approximately 30,500 square feet (0.7 acres) of residential development, consisting of approximately 50 housing units and associated utilities, within the following parameters: (1) Residential buildings must have a minimum 10-foot-wide setback from the inland boundary of the waterfront park; (2) Residential buildings must be a minimum of 100 feet from the Bayward edge of the wharf deck, however, minor projections, overhangs, access features, and related elements may encroach into the 10-foot-wide building setback from the boundary of the waterfront park; (3) Pedestrian connections to the shoreline must be provided throughout the neighborhood along the internal street network; (4) Primary entrances to the residential housing units shall face onto the waterfront promenade and plaza; (5) All structures shall have a maximum roof eave height of 60 feet; (6) Substantial fences and decks shall not be

permitted on the front (Bayward) side of the housing units; (7) Final design of the residential development shall be compatible with the view corridors and pocket parks required in Special Conditions II.C and II.B.4.e; and (8) A landscaped area north of the residential buildings and adjacent to the waterfront park shall be completed at the time of construction of the waterfront park;

4. **Residential Roadway.** Construct, use, and maintain in-kind approximately 20,000 square feet of a vehicular roadway associated with the residential development;
5. **Waterfront Park.** Construct, use, and maintain in-kind an approximately 67,083-square-foot (1.54-acre) portion of an approximately 200,324-square-foot (4.6-acre) waterfront park on top of an existing concrete wharf structure, consisting of:
 - a. **Waterfront Promenade.** An approximately 53,786-square-foot (1.23-acre) portion of an approximately 131,286-square-foot (3.01-acre), 90-foot-wide waterfront promenade (the remainder of which is in the Bay);
 - b. **Waterfront Plaza.** An approximately 7,783-square-foot (0.18-acre) portion of an approximately 22,311-square-foot (0.51-acre) waterfront plaza (the remainder of which is in the Bay);
 - c. **Pocket Parks.** Two approximately 40-foot-wide pocket parks, one approximately 2,350 square feet and the other approximately 2,914 square feet; and
 - d. **Parking Lot.** An approximately 250-square-foot portion of a parking lot;
6. **Waterfront Park Amenities.** Construct, use, and maintain in-kind public access and other features within the waterfront park, including portions of an approximately 1,475-linear-foot, minimum 18-foot-wide trail, seating, public artwork, children’s play equipment and surfaces, portions of pergola shade structures, bicycle racks, recreational courts and outdoor games, a public restroom with exterior shower, a dog fountain, signage, plantings, and low walls associated with planting areas and the Bay Trail;
7. **Pedestrian Sidewalk.** Construct, use, and maintain in-kind a minimum 7-foot-wide pedestrian sidewalk no less than ten feet from the Bayward edge of the foundations of the residential units;
8. **Western Greenway.** Construct, use, and maintain in-kind an approximately 3,575-square-foot portion of an approximately 36,384-square-foot, minimum 50-foot-wide public access corridor (“Western Greenway”) with a 12-foot-wide trail and a portion of a residential road; and
9. **Interface with Neighboring Property.** Construct, use, and maintain in-kind a 142-square-foot portion of a 215-square-foot, 5-foot-wide grate cover (the remainder of which is in the Bay), a railing, and a 7-foot-high transparent (picket-style) fence at the western edge of the waterfront promenade adjacent to the neighboring Bay Ship & Yacht property.

- B. Deadlines for Commencing and Completing Authorized Work.** Work authorized herein must commence prior to December 31, 2020, or this permit will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within six years of commencement, or by December 31, 2025, whichever is earlier, unless an extension of time is granted by amendment of the permit.
- C. Project Summary.** The project will develop a mixed-use neighborhood and waterfront park on a 22.8-acre formerly industrial site. The project will include construction of up to 400 residential units, approximately 5,000 square feet of commercial and retail uses, and associated streets, utilities, and infrastructure. The residential portions of the project will be built in three phases, over approximately six years. At build-out, approximately 600 to 960 residents and 15 retail employees will use the site daily, in addition to members of the public. While the majority of the residential and retail uses will be developed outside of the Commission's permitting jurisdiction, approximately 50 residential units are to be constructed within the 100-foot shoreline band.

The project also involves the construction and ongoing in-kind maintenance of an approximately 4.6-acre waterfront park on top of and adjacent to an existing concrete wharf structure. The "Western Greenway" and five dedicated view corridors are provided to allow for inland connections to the shoreline.

- 1. Bay Fill.** The proposed project will result in the placement of approximately 4,594 square feet of new floating and cantilevered fill in the Bay, through the installation of a dock system consisting of a public dock, shuttle launch platform, and kayak launch platform. In addition, the project will result in approximately 72 cubic yards of new solid Bay fill through the repair of piles supporting the existing wharf structure.

While the construction of portions of the waterfront promenade and plaza, and installation of certain public access amenities, will occur in the Commission's Bay jurisdiction, these activities will be conducted on top of the existing concrete wharf structure. As the wharf structure predates the establishment of the Commission, and does not require substantial retrofits, the Commission's practice has been to review development on overwater structures such as this under the same policies that it would for development within the 100-foot shoreline band (see Findings Section III.A.2, below). Therefore, these activities are not included in the calculations of new Bay fill.

- 2. Public Access.** The project will result in the construction of approximately 5.43 acres of new public access areas. The project involves reuse of an existing concrete wharf and adjacent areas as an approximately 200,234-square-foot (4.6-acre) waterfront park. The park would include a public promenade, plaza, pocket parks, and public parking. A public boat dock, kayak launch platform, and water taxi launch platform would be constructed in the Bay. In addition, the project would include an approximately 36,384-square-foot (0.83-acre)

greenway (“Western Greenway”) connecting the waterfront park to surface streets on the western edge of the property. In total, the project results in approximately 236,618 square feet (5.43 acres) of new public access, of which 167,280 square feet (3.84 acres) are within the Commission’s permitting jurisdiction and 69,338 square feet (1.59 acres) are outside the Commission’s jurisdiction.

- D. **Related BCDC Permits.** On November 30, 2017, BCDC issued Abbreviated Regionwide Permit No. ANOI2017.010.00 for the structural separation of the concrete wharf along the property boundary between the subject property and the adjacent property to the west.

II. Special Conditions

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

A. Plans and Plan Review.

1. **Construction Document(s).** The development authorized herein shall be built generally in conformance with the following documents submitted as part of the application:
 - a. The plan set titled “Waterfront Plaza & Promenade DRB Exhibits,” prepared by Catellus, BKF Engineers, and Kay Victor, dated October 15, 2018;
 - b. “BCDC 100’ Jurisdiction Area: Exhibit #1,” “BCDC 100’ Jurisdiction Area: Exhibit #2,” and “BCDC 100’ Jurisdiction Area – Deck Removal: Exhibit #3,” prepared by Catellus, BKF Engineers, and Kay Victor, dated February 1, 2019;
 - c. The plan set titled “Alameda Landing Wharf Demolition Plan,” prepared by Catellus and BKF Engineers, dated January 25, 2019;
 - d. The plan set titled “Alameda Landing Wharf Structural Demolition,” prepared by Catellus and Simpson Gumpertz & Heger, dated January 29, 2019;
 - e. The report and plan set titled “Seismic Lateral Spread Mitigation Via Soil Improvement by Deep Soil Mixing Buttress,” prepared by Advanced Geosolutions, Inc., dated September 10, 2018;
 - f. The plan titled “Bay Mud Thickness Contours,” prepared by Langan, dated August 9, 2018;
 - g. “Preliminary Grading Exhibit,” prepared by BKF Engineers, dated January 29, 2019; and
 - h. The plan set titled “Alameda Landing Wharf Structural Repairs,” prepared by Simpson Gumpertz & Heger and Catellus, dated July 18, 2018.

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

behalf of the Commission through plan review or a permit amendment. The Executive Director may direct the Commission's Design Review Board to review and comment upon any substantial changes to the plans referred to herein.

2. **Construction Documents Review and Approval.** No work whatsoever shall commence pursuant to this permit until final construction documents regarding authorized activities are approved in writing by or on behalf of the Commission. All documents are reviewed within 60 days of receipt. To save time, preliminary documents may be submitted prior to the submittal of final documents. If final construction document review is not completed by or on behalf of the Commission within the 60-day period, the permittees may carry out the project authorized herein in a manner consistent with the plans referred to in Special Condition II.A.1 of this permit. The plans for site demolition, the wharf cut, Deep Soil Mix (DSM), and wharf and pile repairs identified in Special Conditions II.A.1.c, II.A.1.d, II.A.1.e, and II.A.1.h were submitted as signed and stamped final plans, and do not require plan review subject to this Special Condition. Should the design of the authorized work change for these items, new plans shall be submitted and shall be subject to plan review pursuant to this Special Condition and, if changes are significant from the work authorized herein, may require an amendment to this permit.
 - a. **Document Details.** All construction documents shall be labeled with: the Mean High Water line or the upland extent of marsh vegetation no higher than +5 feet above Mean Sea Level and the tidal datum reference (NAVD88 or, if appropriate, Mean Lower Low Water (MLLW)); the corresponding 100-foot shoreline band; property lines; the location, types, and dimensions of materials, structures, and project phases authorized herein; grading limits; and the boundaries of public access areas and open space and landscaping areas required herein. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.
 - b. **Conformity with Final Approved Documents.** All authorized development and uses shall conform to the final documents. Prior to use of the facilities authorized herein, the appropriate professional(s) of record shall certify in writing that the work covered by the authorization has been implemented in accordance with the approved criteria and in substantial conformance with the approved documents. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.
 - c. **Discrepancies between Approved Plans and Special Conditions.** In case of a discrepancy between final approved documents and the special conditions of this permit or legal instruments, the special condition shall prevail. The permittees are responsible for assuring that all plans accurately and fully reflect the special conditions of this authorization and any legal instruments submitted pursuant to this authorization.

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

B. Public Access

1. **Total Area.** The approximately 236,618-square-foot (5.43-acre) area, along approximately 1,475 linear feet of shoreline as generally shown on Exhibit A shall be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, fishing, picnicking, boating, and related purposes. If the permittees wish to use the public access area for other than public access purposes, including for special events that are not free and open to the public, they must obtain prior written approval by or on behalf of the Commission.

The overall proposal for public access for this project includes:

New public access in the Bay: 96,622 square feet (2.22 acres)

New public access in the shoreline band: 70,658 square feet (1.62 acres)

New public access outside of the Commission's jurisdiction: 69,338 square feet (1.59 acres)

2. **Permanent Guarantee.** Within 16 months of issuance of this permit or prior to commencement of construction of any residential development authorized herein, whichever is earlier, the permittees shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the new 5.43-acre public access areas. The instrument(s) shall create rights in favor of the public which shall commence no later than after completion of construction of any public access improvements required by this authorization and prior to the use of any structures authorized herein. Such instrument shall be in a form that meets recordation requirements of Alameda County and shall include a legal description of the property being restricted and a map that clearly shows the shoreline (Mean High Water Line or 5 feet above Mean Sea Level if marsh is present), the property being restricted for public access, the legal description of the property and of the area being restricted for public access, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank of any levees, any significant elevation changes, and the location of the nearest public street and adjacent public access areas. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following:

- a. Sufficiency of the instrument to create legally enforceable rights and duties to provide the public access area required by this authorization;
 - b. Inclusion of an exhibit to the instrument that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and
 - c. Sufficiency of the instrument to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.
3. **Recordation of the Instrument.** Within 30 days after approval of the instrument, the permittees shall record the instrument on all parcels affected by this instrument and shall provide evidence of recording to the Commission. No changes shall be made to the instrument after approval without the express written consent by or on behalf of the Commission.
4. **Improvements Within the Total Public Access Area.** According to the schedule in Special Condition II.B.7 (“Waterfront Park Construction Timing”) below, the permittees shall construct and make available to the public for public access uses including walking, running, sitting, viewing, picnicking and related purposes, the following barrier-free public access areas and improvements, as generally shown on Exhibit A:
- a. **Waterfront Wharf Promenade.** An approximately 131,286-square-foot (3.01-acre) public promenade along the waterfront edge of the property on the existing wharf.
 - b. **Waterfront Plaza.** An approximately 22,311-square-foot (0.51-acre) public plaza on the waterfront in line with the terminus of Fifth Street.
 - c. **Public Access Improvements Within the Waterfront Wharf Promenade and Plaza Areas.** Within the waterfront promenade and plaza areas, the permittees shall provide:
 - (1) A minimum 18-foot-wide trail along approximately 1,475 linear feet of shoreline, to be designated as a segment of the San Francisco Bay Trail;
 - (2) An approximately 42-inch-high railing along the waterfront edge of the site, for public safety, which should maximize visual access to the Bay and have a top rail that is comfortable to lean on;
 - (3) An appropriate number of benches and other types of seating;
 - (4) Approximately 3,670 square feet of lawn areas, with real or synthetic turf. Prior to use of synthetic turf, the permittees should demonstrate that real turf is infeasible for a substantiated reason, such as loading of the wharf structure;
 - (5) Appropriate shade and wind protection, including but not limited to pergolas and trellis shade structures;
 - (6) A minimum of 30 bicycle racks with parking for 60 bicycles in total;

- (7) A minimum of 6 bicycle lockers with storage for 12 bicycles in total;
 - (8) Kayak storage for a minimum of 12 kayaks;
 - (9) A minimum of four exercise stations, two areas for outdoor games, and a children's play area;
 - (10) A fish cleaning station with appropriate fish consumption warning signs;
 - (11) A minimum of 12 picnic tables and an appropriate number of barbeque pits and waste receptacles;
 - (12) A minimum of 2 telescopes for Bay viewing;
 - (13) An approximately 7-foot-high transparent (picket-style or similar) fence located between the subject property and the neighboring maritime site to the west;
 - (14) A minimum 7-foot-wide sidewalk between the promenade and the residential development, running the length of the site;
 - (15) A public restroom with at least 3 stalls;
 - (16) Public artwork;
 - (17) Appropriate lighting;
 - (18) Approximately 42,000-47,000 square feet of plantings, including groundcover and shrubs; and
 - (19) An appropriate number of signs, including at minimum 4 interpretive signs, 4 Bay Trail signs, and 6 wayfinding signs.
- d. **Dock and Kayak Launch.** An approximately 4,594-square-foot, ADA-accessible dock system, including a public dock, kayak launch, and water shuttle landing. An appropriate number of signs shall be provided, including signs designating public use and water shuttle use, and safety signage.
 - e. **Pocket Parks.** Two approximately 40-foot-wide pocket parks, one approximately 2,350 square feet and the other approximately 2,914 square feet. The pocket parks shall each be sited adjacent to the waterfront promenade, and each shall align with one of the north-south view corridors through the residential development required in Special Condition II.C. Appropriate seating, lighting, pathways, and plantings should be provided within the pocket parks.
 - f. **Public Parking.** A minimum of 18 public parking spaces, including two ADA-accessible parking spaces, provided free of charge and designated with "Public Shore" parking signs.
 - g. **Interface with Neighboring Property.** An approximately 215-square-foot, 5-foot-wide grate cover, a railing, and a fence at the western edge of the waterfront promenade adjacent to the neighboring Bay Ship & Yacht property. The railing and fence shall provide transparent views to the Bay and neighboring property.

- h. **Western Greenway.** An approximately 36,384-square-foot, minimum 50-foot-wide public access corridor (“Western Greenway”) with a minimum 12-foot-wide trail with 3-foot-wide shoulders, along the western edge of the property, connecting the waterfront park to surface streets. A portion of a residential road may be built adjacent to the trail, but should be separated from the trail by an appropriately wide landscape buffer. Within the Western Greenway, appropriate amenities shall be provided for public use and enjoyment of the trail and view corridor, such as signage and lighting.
- i. **Public Access Connection Between Fifth Street and East-West View Corridors.** A public access connection between the Fifth Street and East-West View Corridors required under Special Conditions II.C.1.a and II.C.1.c, below.

Such improvements shall be consistent with the plans approved pursuant to Special Condition II.A.2 of this authorization.

- 5. **Public Access and Wayfinding Signage.** Prior to occupancy of any residential unit or commercial space associated with Phase 1 of the project, the permittees shall submit for review and approval by or on behalf of the Commission a comprehensive public access sign program designed to maximize public recognition, use, and enjoyment of the site’s public access improvements. The sign program shall provide detail on the location, quantity and design of wayfinding, interpretive, “Public Shore,” and Bay Trail signs, consistent with Special Conditions II.B.4.c, II.B.4.d, II.B.4.e, II.B.4.f, II.B.4.g, and II.B.4.h. The sign program shall be reviewed through the plan review process established in Special Condition II.A above.
- 6. **Public Art Plan.** Prior to installing any permanent or temporary public art installations within any public access area or view corridor required by this permit, the permittees shall submit for review and approval by or on behalf of the Commission a public art plan that will identify design and siting criteria for public art installations. The public art plan will be reviewed to ensure design and siting criteria are adequate to provide for use of public access areas by a wide range of users and maintain important views of the Bay. The plan will be reviewed through the plan review process established in Special Condition II.A above. No art installations are permitted in the view corridors required under Special Condition II.C unless the Executive Director determines the impacts to view corridors will not be significant.
- 7. **Waterfront Park Construction Timing**
 - a. **Phase One.** The required public access area and improvements shown as the “Public Park Improvements - Phase 1” area on Exhibit C, which includes the portions of the waterfront park promenade, plaza, and public access improvements required in Special Condition II.B.4 within this area, shall commence prior to issuance by the City of the first building permit for the first unit within the residential development, and shall be completed and open to the public no later than the time that 50 percent of the units within Phase 1 of the residential project are occupied (i.e., a certificate of occupancy is issued for the unit that represents 50 percent of the total number of residential units in Phase 1).

- b. **Phase Two.** The required public access area and improvements shown as the “Public Park Improvements - Phase 2” area on Exhibit C, which includes the portions of the waterfront park promenade and public access improvements required in Special Condition II.B.4 within this area, shall commence prior to issuance of the first building permit for the first unit of Phase 2 of the residential units, and shall be completed and open to the public no later than the time that 50 percent of the units within Phase 2 of the residential project are occupied (i.e., a certificate of occupancy is issued for the unit that represents 50 percent of the total number of residential units in Phase 2).
8. **Future Public Access Connection to Bicycle and Pedestrian Bridge.** The permittees shall enable the construction of a planned future bicycle and pedestrian bridge between its property and the Oakland side of the Oakland–Alameda Estuary to facilitate the completion of a cross-estuary public access connection. At such time as the bicycle and pedestrian bridge is constructed, the permittees shall reasonably coordinate with the permittee(s) of the public access bridge to create a continuous and seamless transition between the public access areas, including landscaping.
9. **Maintenance.** The areas and improvements within the 236,618-square-foot (5.43-acre) public access area described above 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; replacement of any plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, trash containers, and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; assurance that the public access signs remain in place and visible; and repairs to any public access areas or improvements that are damaged by future subsidence or uneven settlement, flooding, or inundation caused by sea level rise, including raising land elevations or redesigning public access features to protect and ensure the usability of the public access areas and improvements at all times. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site. The permittees shall obtain approval by or on behalf of the Commission of any maintenance that involves more than in-kind repair and replacement.
10. **Assignment.** The permittees shall 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 permit.
11. **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 will not significantly affect the public nature of the area, will not unduly interfere

with reasonable public use of the public access areas, and will 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. View Corridors

1. **Visual Access.** The permittees shall leave as open space and undeveloped in perpetuity five view corridors, as described here and shown on Exhibit B to this permit, to allow visual access through the residential development to the Bay. The permittees shall not allow any portion of the proposed structure or any appurtenant structure to intrude into the view corridor, and the permittees shall landscape the view corridor only with plants or shrubs that do not exceed three feet in height and trees with a canopy that is a minimum of 12 feet from the ground at maturity, except where noted below, and that have been approved by or on behalf of the Commission pursuant to Special Condition II.A of this permit.
 - a. **Fifth Street View Corridor.** A 75-foot-wide view corridor shall be established in line with Fifth Street from Mitchell Avenue to the Bayward edge of the waterfront plaza. This view corridor is designed to create an axial public view along Fifth Street in Alameda to Jack London Square and up Broadway in Oakland. The view corridor may contain vehicle travel lanes, sidewalks, a roundabout, landscaping, and trees that allow for visual access.
 - b. **Western Greenway View Corridor.** A 50-foot-wide view corridor shall be established along the western edge of the property from Mitchell Avenue to the bayward edge of the waterfront promenade. The view corridor may contain vehicle travel lanes, a pedestrian path, sidewalks, landscaping, and trees that allow for visual access.
 - c. **East-West View Corridor.** A 40-foot-wide east-west view corridor shall be provided through the residential neighborhood in line with an internal vehicular street, sited to provide views of maritime uses and the Bay to the west between the two existing warehouses on the neighboring Bay Ship & Yacht property. The view corridor may contain vehicle travel lanes, sidewalks, landscaping, and trees that allow for visual access.
 - d. **North-South View Corridors.** Two 40-foot-wide north-south view corridors will be provided in line with public streets through the residential neighborhood, from Mitchell Avenue to the south to the waterfront promenade to the north, each ending in the two pocket parks required in Special Condition II.B.4.e. The exact location of these two view corridors is subject to change in the final residential development plan. The view corridors may contain vehicle travel lanes, sidewalks, landscaping, and trees that allow for visual access. A future bicycle and pedestrian bridge, pursuant to Special Condition II.B.8, may be sited in one of the north-south view corridors.

2. **View Corridor Dedication or Restriction Documents.** Prior to construction of Fifth Street, the Western Greenway, or any street within the residential development area, the permittees shall submit to the Commission's Executive Director a legal instrument that dedicates to a public entity other than the Bay Commission or otherwise restrict in perpetuity as open space for visual access purposes the Fifth Street View Corridor, Western Greenway View Corridor, and East-West View Corridor as required by Special Condition II.C.1.a, II.C.1.b, and II.C.1.c of this permit. Prior to construction of the residential development associated with this project, the permittees shall submit construction documents showing the final locations of the North-South View Corridors required by Special Condition II.C.1.d for plan review and approval pursuant to Special Condition II.A. After approval by the Executive Director of the North-South View Corridor locations through plan review, the permittees shall submit to the Commission's Executive Director a legal instrument that dedicates to a public entity other than the Bay Commission or otherwise restricts in perpetuity as open space for visual access purposes the two North-South View Corridors as required by Special Condition II.C.1.d of this permit.

The instruments shall include a map that shows the shoreline (Mean High Water Line or 5 feet above Mean Sea Level if marsh is present) and a metes and bounds description of the area being restricted as open space and shall be in a form suitable for recording in Alameda County.

The Executive Director shall review and either approve or disapprove the proposed instruments within 30 days of their receipt. Approval or disapproval shall be based on the sufficiency of the instruments to create the required open space condition. If the Executive Director approves the instruments, the permittees shall record the instruments on all parcels affected by the instrument within 30 days of their approval and shall thereafter provide the Commission with a copy of the recorded instruments. If the Executive Director disapproves the instruments, the permittees shall correct all deficiencies and resubmit the corrected instruments for further staff review within 30 days of receipt of the written notification of disapproval. The Executive Director shall then review the corrected instruments in accordance with this review procedure, and the permittees shall record the approved instruments on all parcels affected by the instrument within 30 days of their approval.

3. **Maintenance of Landscaping.** The permittees shall maintain the view corridors. Maintenance shall consist of the regular maintenance of trees, trimming of shrubs and any plants to prevent their exceeding three feet in height, and clearing and replacing of any dead plants, shrubs, and trees.

D. **Water Quality and Habitat Protection**

1. **Water Quality Protection.** No in-water work shall commence until the permittees provide a copy of a Water Quality Certification, or waiver thereof, from the San Francisco Bay Regional Water Quality Control Board for the work associated with this permit. Should the Water Quality Certification require changes to the authorized improvements or special conditions, the permittees shall apply for and receive

Commission authorization for any required changes. The permittees shall implement Best Management Practices and measures to protect water quality during construction of the work authorized herein, including any requirements of the Water Quality Certification.

2. **Resource Agency Approvals.** No in-water work shall commence until the permittees provide a copy of any required “take” authorizations or other approvals needed from the National Marine Fisheries Service (NMFS), US Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW) for the work associated with this permit. Should any agency approvals require changes to the authorized improvements or special conditions, the permittees shall apply for and receive Commission authorization for any required changes.

E. **Flooding and Adaptation**

1. **Flooding Notification.** If any portion of the public access areas required by Special Condition II.B.1 is subject to coastal flooding that necessitates closure of the public access in whole or in part, and such closures are the result of two or more separate coastal flooding events in any given twelve-month period, the permittees shall notify the Commission of such events and shall initiate a planning process in consultation with the Commission to identify feasible (e.g., based on financial, wharf loading, and/or other site constraints) modifications to the design of the park to ensure that the required public access areas will remain viable. Coastal flooding is defined as Bay overtopping of the waterfront park shoreline edge during tides, storms, or both.
2. **Adaptation Planning Process.** Within 180 days of the second coastal flooding event within a twelve-month period that results in closure of the public access in whole or in part, or earlier at the discretion of the permittees, the permittees shall submit for Commission review and approval a sea level rise adaptation plan that conforms to the requirements in Special Condition II.E.3 below. Depending on the actions required to implement the sea level rise adaptation plan, the permittees may be required to obtain a permit or permit amendment from the Commission.
3. **Adaptation Plan Requirements.** The goal of the Adaptation Plan shall be to maintain maximum feasible public access consistent with the project and to ensure that the public access remains viable under sea level rise conditions. At minimum, the Adaptation Plan shall ensure a minimum 31-foot-wide continuously accessible east-west shoreline public access area Bayward of the upland residential and commercial development provided by the project. The continuous east-west shoreline public access area shall include, at minimum, a shoreline trail that meets San Francisco Bay Trail design standards with connections to Fifth Street, the Western Greenway, and the pocket parks. The continuous east-west shoreline public access area shall be protected to the same extent as the upland residential and commercial development. Outside of the minimum 31-foot-wide continuous east-west shoreline public access area, the maximum feasible area of public access required in Special Condition II.B.1 shall be protected from coastal flooding through measures designed to maximize the size and usability of the public access areas. A reduction in the area of

public access provided by the project may be allowed (i.e., some areas may be occasionally or regularly flooded) if the overall shoreline public access experience is enhanced through a redesign of the shoreline as determined by or on behalf of the Commission. Alternatively, the permittees may propose an alternative, equivalent public access area or areas that provides maximum feasible public access consistent with the project. The Adaptation Plan shall also include a timeline to implement the adaptation measures approved and required by or on behalf of the Commission to ensure that the project continues to provide maximum feasible public access. The Adaptation Plan and schedule therein shall incorporate sea level rise and storm projections based on the best available science.

- F. **Pile Inspection and Monitoring Program.** Prior to construction activities on the portion of the existing concrete wharf structure to remain, the permittees shall submit for review and approval by or on behalf of the Commission a draft Pile Inspection and Monitoring Plan (Plan), and shall submit an updated Plan for review and approval upon completion of the initial wharf and pile repairs authorized herein. The updated Plan shall identify the methods by which the permittees will conduct regular ongoing structural inspections on the underdeck components of the wharf structure by qualified engineers. The first pile inspection shall commence within three years following completion of the waterfront park, and subsequent inspections should be initiated every five years thereafter, unless the previous inspection determines that the rate at which deterioration of the piles is occurring warrants an earlier inspection for safety of the wharf structure. The Plan shall specify that results of the ongoing inspections will be submitted to the Commission's office in a timely manner following each inspection, and shall summarize designed or required maintenance activities to correct identified problems. The Executive Director shall be notified prior to any maintenance and retrofit work resulting from the monitoring, as such work may require review and approval by or on behalf of the Commission. When preparing the sea level rise adaptation plan required by Special Condition II.E.2, above, the permittees shall consider whether it is necessary or appropriate to revise the Pile Inspection and Monitoring Plan based on the adaptation measures identified or recommended in the adaptation plan and, if so, within 60 days of submitting the adaptation plan the permittees shall submit an amended Pile Inspection and Monitoring Plan for review and approval by or on behalf of the Commission.
- G. **Seismic Instrumentation Plan.** The permittees shall develop and submit a final seismic instrumentation plan for review and approval by or on behalf of the Commission, pursuant to Special Condition II.A, prior to the commencement of construction of the waterfront park at the site. The final seismic instrumentation plan shall be generally consistent with the plan titled "Proposed Seismic Instrumentation Plan: Alameda Landing Waterfront Development Phase," prepared by Catellus Development Corporation and dated October 19, 2018.
- H. **Stockpiling of Materials.** Prior to stockpiling any materials within the Commission's jurisdiction, the permittees shall submit a stockpiling plan for review and approval by or on behalf of the Commission, pursuant to Special Condition II.A. The plan shall be signed

by a qualified engineer and shall demonstrate that the shoreline can physically support stockpiling at the proposed location(s), and that the stockpiling will not result in adverse impacts to the Bay or the public access required by this permit.

- I. **Recording.** The permittee shall record this permit or a notice specifically referring to this permit on all parcels affected by this permit with Alameda County within 30 days after execution of the permit issued pursuant to this authorization and shall, within 30 days after recordation, provide a copy of the recorded permit to the Commission.
- J. **Certification of Contractor Review.** Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.
- K. **Inspection Layout**
 1. **Written Request.** Prior to constructing any permanent structural building element that will be located in or adjacent to BCDC's 100-foot-wide shoreline band or required public access or open space area, the permittees shall provide written notification to the Commission staff of the foundation or structure layout as it has been surveyed and staked in the field relative to MHW.
 2. **Certificate of Foundation Layout Inspection.** Within five working days of receipt of the written notification, the Commission's staff may inspect the building element or foundation layout as it has been surveyed and staked in the field for any structure that will be located in or adjacent to BCDC's 100-foot-wide shoreline band or required public access or open space area. The permittee shall not pour the foundation until the staff has confirmed in writing that the building element or foundation layout is consistent with the terms and conditions of the permit by providing the permittees with a Certificate of Foundation Layout Inspection.
 3. **Responsibility of Permittees.** If the staff is unable to perform this inspection within the 5-day period, the permittees may commence such work, but the staff's inability to complete such an inspection does not relieve the permittees of the responsibility to provide public access areas and build any structures (the project) in accord with the approved plans.

III. Findings and Declarations

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

- A. **Bay Fill.** Section 66605 of the McAteer-Petris Act provides that further filling of the Bay may be authorized by the Commission only when public benefits from fill clearly exceed public detriment from the loss of water areas and is limited to water-oriented uses or minor fill for improving shoreline appearance or public access to the Bay. Additionally,

fill of the Bay should be authorized only if: no alternative upland location is available for such purpose; the water area authorized to be filled is the minimum necessary to achieve the purpose of the fill; harmful effects to the Bay and its waters are minimized; the fill is constructed in accordance with sound safety standards; the fill establishes, to the maximum extent feasible, a permanent shoreline; and, the applicant has valid title to the property in question.

1. **Dock System and Pile Repairs.** The project involves construction of a floating dock system that will include a public dock, shuttle launch platform, and kayak launch platform, which results in filling approximately 4,594 square feet of the Bay. The footprint of the dock system will be minimal and of a size appropriate for the anticipated level of use. No dredging will be required, and the design of the launch will not require installation of piles. The dock system will provide water-oriented recreational opportunities for a variety of users in a location where no water access currently exists. The project will also include repairs to existing wharf piles that are necessary to maintain functionality and safety of the public waterfront park over time, which will result in 72 cubic yards of new Bay fill beneath the existing wharf structure.

The fill will provide and support public access facilities for which public benefits of the fill will exceed any detriment. No upland alternative location exists for floating boat, shuttle, and kayak launches, or for the repair of existing piles in the Bay. The Successor Agency to the Community Improvement Commission of the City of Alameda has legal ownership of the area where the proposed work will occur.

Special Condition II.D has been included to ensure that project construction, materials, and the improvements themselves will not adversely affect the Bay's natural resources, water quality, or navigation. Resource agency approvals for the proposed in-water work were not received as part of the application, but are required prior to project construction. Special Condition II.D.1 requires that the permittees submit a Water Quality Certification or waiver thereof from the Regional Water Quality Control Board prior to in-water construction, and that the permittees implement Best Management Practices to protect water quality, consistent with the Bay Plan policies on Water Quality. Special Condition II.D.2 requires that any needed approvals from other resource agencies be submitted prior to in-water construction in order to protect fish and wildlife, consistent with the Bay Plan policies on Fish, Other Aquatic Organisms, and Wildlife.

2. **Wharf Structure Seismic Safety and Sea Level Rise.** In addition to Section 66605(e) of the McAteer-Petris Act regarding the seismic and flooding standards by which fill is designed and constructed, the Bay Plan contains related policies. Bay Plan Safety of Fills Policy No. 1 states, in part, "[t]he Commission has appointed the Engineering Criteria Review Board consisting of geologists, civil engineers specializing in geotechnical and coastal engineering, structural engineers, and architects competent to and adequately empowered to:...establish and revise safety criteria for Bay fills and structures thereon...[and]...review all except minor projects for the adequacy of their specific safety provisions, and make recommendations concerning these

provisions....” The Bay Plan Safety of Fills Policy No. 4 states, in part, that “[a]dequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project....New projects on fill or near the shoreline should...be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project, be specifically designed to tolerate periodic flooding, or employ other effective means of addressing the impacts of future sea level rise and storm activity.”

Further, Bay Plan Climate Change Policy No. 2 states, in part, “[w]hen planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end-of-century based on the best scientific data available should be used in the risk assessment. Inundation maps used for the risk assessment should be prepared under the direction of a qualified engineer. The risk assessment should identify all types of potential flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat from proposed flood protection devices.” Climate Change Policy No. 3 states, “[t]o protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects...should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.”

The site includes a pile-supported, approximately 150-foot-wide concrete wharf that runs along the site’s approximately 1,400-foot-long shoreline, and an upland area extending approximately 650 feet between the wharf and the public road. Approximately 92,028 square feet of the wharf structure is over water (Bayward of MHW), with the remainder over land. The wharf structure was constructed in approximately 1944, prior to the establishment of the Commission. For overwater structures that predate the Commission and that have not undergone significant structural repairs or modified to the extent that the work would significantly extend the life of the structure, the Commission’s practice has been to review development on these overwater structures under the same policies that it would for development within the 100-foot shoreline band. In evaluating the applicable policies for the proposed project, Commission staff first considered the safety of the existing wharf structure and whether the structure would require significant retrofits that would substantially extend the life of the project, which would thus necessitate the consideration of proposed work to and on top of the wharf structure under the policies applicable to the Commission’s Bay jurisdiction.

The permittees indicated that a 100% underwater and above-water inspection was conducted by the project's design engineers, to assess the condition of the concrete wharf and piles. The application stated that: "The design team has concluded that the structure shows wear consistent with its age, considering there has been little or no maintenance on the structure during its nearly 75-year lifetime." While damage has occurred to specific piles as well as localized areas of the wharf deck and soffit, and a maintenance program is planned, the permittees have stated that: "The structural integrity of the wharf is such that the maintenance program could be rolled out over the next decade." In a June 7, 2018 letter, the structural engineer also indicated that the wharf and pile repairs can take place independently of soil improvements, and that the pile repairs are "intended to repair components to their predamage [from long-term exposure to water] state, and they do not provide strengthening or add capacity above the original design." Wharf and pile maintenance would include "filling in isolated cracks with new marine-grade grout and putting protective concrete jackets around selected piles," and the application indicates that no substantial retrofits are needed. Redundancy of piles beneath the wharf also provides extra capacity for the wharf structure, and thus contributes to the minor nature and timing of pile repairs.

Commission staff also sought the advice of the Commission's Engineering Criteria Review Board (ECRB) on whether the wharf and pile repair program would be sufficient as part of a long-term maintenance plan for normal wear-and-tear, or whether pile replacement or more substantial retrofits should be required prior to use of the wharf for public access. The ECRB indicated that the permittees were following appropriate criteria for the safety of the wharf, and concurred with the permittees that major retrofits did not appear to be needed to meet the structural criteria and that pile repairs appeared to be appropriate over a longer time frame rather than being necessary before public use of the wharf. Special Condition II.F is therefore included to require an ongoing pile inspection and maintenance program to ensure long-term safety of the public access.

Commission staff also sought the advice of the ECRB on the impacts of sea level rise on the wharf structure. In a November 1, 2018 letter that was presented to the ECRB by the permittees, the project's structural engineer stated: "Using varying levels of sea level rise and our design wave, we determined that the largest vertical uplift loads from waves impacting the underside of the deck would not overcome the weight of the deck and that seismic loads will continue to govern for the wharf structure." The ECRB again indicated that the permittees were following appropriate criteria regarding wharf performance under sea level rise, and that sea level rise would likely have limited impacts on the safety of the wharf structure itself. Sea level rise is discussed further in Findings Section III.B.3, below, as it relates to specific features and adaptation of the public access.

Because the wharf does not require substantial retrofits that would significantly extend the life of the structure in order to construct the project herein, either to provide the authorized uses or to address the impacts of sea level rise on the wharf

structure, the project components provided on top of the wharf structure have been analyzed under the same policies that they would for development within the 100-foot shoreline band.

Bay Plan Safety of Fills Policy No. 3 states, “[t]o provide vitally-needed information on the effects of earthquakes on all kinds of soils, installation of strong-motion seismographs should be required on all future major land fills” and “...the Commission encourages installation of strong-motion seismographs in other developments on problem soils and in other areas recommended by the U.S. Geological Survey, for purposes of data comparison and evaluation.”

The permittees provided a draft seismic instrumentation plan, which was presented to the ECRB and is being finalized in consultation with the California Strong Motion Instrumentation Program in the Department of Conservation’s California Geological Survey. Special Condition II.G requires that the final seismic instrumentation plan be submitted for review and approval by Commission staff through the plan review process.

For all the reasons discussed above, the Commission therefore finds that the project, as conditioned, is consistent with the Commission’s law and related policies on the placement of fill.

- B. **Maximum Feasible 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 policies on public access state, in part, “[a] proposed fill project should increase public access to the Bay to the maximum extent feasible...” and that “...maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline...”

1. **Public Access Impacts and Benefits.** In assessing whether a proposed project increases public access to the Bay and its shoreline, the Commission considers existing conditions at the project site, the proposed public access improvements provided by a project, and the existing and future demand for public access facilities. The McAteer-Petris Act and Bay Plan policies must be read in light of court decisions that have established 1) that a public agency must show a nexus, or essential connection, between any requirements included as a condition of a permit and the public burden created by a private development project, and 2) that the condition must be roughly proportional to the burden.

In this case, the Commission must evaluate the demand for public access that the Alameda Landing Waterfront project will generate and its anticipated impact on the existing and proposed public access at and near the project site.

- a. **Anticipated Public Access Demand.** The housing, employment, and population growth associated with the Alameda Landing Waterfront project is expected to generate greater demand for public access on the Bay shoreline at and in the

vicinity of the project site. At buildout, the permittees indicate that the Alameda Landing Waterfront project is anticipated to accommodate approximately 600 to 650 residents (assuming an average of 2 persons per household and between 300 to 320 residential units) and 15 retail employees. However, the Master Plan for the Alameda Landing Waterfront project allows for up to 400 residential units at this site, which could result in approximately 800 new residents (assuming an average of 2 persons per household) to approximately 960 new residents (assuming the City of Alameda average household size of 2.4 persons per household). These estimates do not reflect short-term visitors at the waterfront park or to the retail and commercial establishments. No estimate was provided as to the number of shoppers and visitors to the site anticipated as a result of the 5,000 square feet of retail and commercial space.

- b. **Existing and Nearby Public Access.** No public access exists at the project site, which is not formally accessible to the public. Other public access exists nearby, however, outside the boundaries of the project site. These facilities can reasonably be expected to see an increased level of use as a result of the addition of the new residents, employees, and visitors generated by the Alameda Landing Waterfront project. An existing public access path and waterfront park (the Mariner Square Waterfront Esplanade, authorized by BCDC Permit No. 1972.005.11) is located adjacent to the project site to the east. The public access path on the neighboring property ends at its intersection with the project site. While the path is not a designated segment of the San Francisco Bay Trail (Bay Trail) because it is not part of a continuous trail network, it is anticipated to become the designated Bay Trail in the future as the shoreline is redeveloped.
- c. **Future Public Access.** The City of Alameda is exploring the concept of a future bicycle and pedestrian bridge that would span the Oakland–Alameda Estuary, connecting the project site or another nearby location to Jack London Square in the City of Oakland. The application stated: “The City of Alameda intends to requests an easement (width TBD) as shown on the Project Plan. The homebuilder will fully incorporate the easement requirements into its development plan. The current width and location have been depicted in the Project Plan. It is currently envisioned that the bridge will pass over the waterfront promenade at approximately 35’ high, without the need for footings, piles, or other access-related obstructions. No pedestrian or bicycle access will be hindered by the bridge.” Special Condition II.B.8 is included to ensure that the planned future bicycle and pedestrian bridge will be effectively integrated with the required public access herein, requiring that the permittees enable the construction of the planned future bicycle and pedestrian bridge and coordinate with the permittees of the public access bridge. Pursuant to Special Condition II.C.1.d, the final bridge location will be allowed in one of the established north-south view corridors.

- d. **Public Access Areas.** The Alameda Landing Waterfront project involves construction of approximately 5.43 acres of public spaces, including a waterfront promenade, plaza, dock system, pocket parks, and greenway. This represents approximately 24 percent of the 22.8-acre project site.

Within the Commission's jurisdiction, the project will involve construction of a waterfront park on and adjacent to an historic concrete wharf, and a portion of the "Western Greenway" corridor providing connection from the waterfront park to surface streets.

The following is a brief summary of newly constructed public access areas for the proposed Alameda Landing Waterfront project:

- **Waterfront Park.** An approximately 4.6-acre waterfront park will be constructed along the waterfront, on and adjacent to an existing historic wharf structure, as required in Special Condition II.B. The park will include an approximately 90-foot-wide, 3.01-acre promenade and an approximately 0.51-acre plaza. A minimum 18-foot-wide segment of the Bay Trail will run along the waterfront as part of both the promenade and plaza. A variety of public amenities will be provided within the promenade and plaza areas, including seating, public artwork, shade structures, bicycle parking, recreational courts, kayak storage, picnic areas, signage, and plantings. Two pocket parks, totaling approximately 5,264 square feet, will be constructed at the interface of the residential development with the waterfront promenade, each aligning with a north-south view corridor required in Special Condition II.C.1.d. An approximately 4,594-square-foot dock system will be constructed in the Bay, consisting of a public dock, kayak launch platform, and water shuttle launch platform. A 35-space parking lot will be located near the existing AMP substation, with 18 designated public parking spaces (16 standard, 2 ADA-accessible) within the waterfront park.
- **Western Greenway.** An approximately 0.83-acre, 50-foot-wide public access corridor will be constructed along the western edge of the property, as required in Special Condition II.B.4.h, providing physical and visual public access connections between the waterfront promenade and Bay Trail to the north and Mitchell Avenue to the south. The Western Greenway will contain a trail according to Bay Trail design standards (minimum 12 feet wide), in addition to a portion of a residential road that could accommodate pedestrian and bicycle traffic when not in use by vehicles. The Western Greenway corridor will also serve as a view corridor, as required under Special Condition II.C.

The project is required to include the public access areas and improvements as described above and defined in more detail in Special Conditions II.B.1 and II.B.4. All of the public access improvements, including final location and design of seating, artwork, shade structures, bicycle parking, signs, lighting, fencing, planting, and other amenities shall be subject to final plan review approval by or

on behalf of the Commission, pursuant to Special Condition II.A. This condition is intended to ensure that the final design of the waterfront park and Western Greenway is consistent with the application, the recommendations of the Design Review Board, and the requirements of this permit.

Bay Plan Public Access Policy No. 6 requires that access provided as a condition of development be permanently guaranteed. Special Conditions II.B.2 and II.B.3 require the recordation of an instrument to provide for the permanent dedication of the public access areas and create legal rights in favor of the public for public access.

Special Condition II.B.9 requires maintenance of the public access amenities to ensure maximum feasible public access for the life of the project, including by future assignees of the permit as required by Special Condition II.B.10. Special Condition II.B.11 allows for the establishment of limited rules and restrictions for the public access required by this permit, subject to approval by or on behalf of the Commission.

- e. **Public Access Phasing.** The public access improvements would be constructed over two phases, and the residential development would be constructed over three phases (Exhibit C). The construction timeline is anticipated to be approximately two years for the waterfront park and approximately six years for the residential development. As part of the application process, the permittees expressed to Commission staff that their hope and intent is to construct the entirety of the waterfront park at the onset of the project, with completion around April 2021. The phasing schedule proposed as part of the application was as follows: "...[C]onstruction of the Phase 1 Waterfront Plaza and Promenade surface improvements shall commence prior to issuance by the City of the first building permit for the first unit within the residential development. Construction of Phase 1 of the Waterfront Plaza and Promenade shall be substantially complete prior to issuance of the first building permit for the first unit of the second half of the residential units. Furthermore, construction of Phase 2 of the Waterfront Plaza and Promenade shall commence prior to issuance of the first building permit for the first unit of the second half of the residential units. Construction of the final phase of the Waterfront Promenade shall be completed prior to issuance of the building permit for the first unit in the last 20% of the units in the residential project."

Subsequently, on February 27, 2019, following a public hearing before the Commission on the project, the permittees proposed modifications to the phasing schedule. In the revised phasing plan, the construction of the Phase 1 waterfront park would be substantially complete prior to 95 percent occupancy of units in Phase 1 of the residential development. The construction of the Phase 2 waterfront park public access improvements would commence prior to issuance of the first building permit for the first unit within the Phase 3

residential development, and the construction of the Phase 2 waterfront park would be substantially complete prior to 50 percent occupancy of the Phase 3 residential development.

The phasing proposed by the permittees provides deadlines by which construction of the public access areas must commence. However, with the deadlines proposed for completion of construction of the public access areas, it is conceivable that a scenario could arise in which substantial portions of the residential development could be finished and occupied before the corresponding waterfront park phase would be open to the public. In such a scenario, delays to the residential and retail portions of the project might occur such that a substantial portion of the upland development could be completed prior to opening of one or both phases of the waterfront park, or even that portions of the public access area would never be completed and open to the public.

As Bay Plan Public Access policies require that “maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline,” it is necessary for the Commission to ensure that public access be provided alongside the project. Without firm deadlines as to when each phase of the public access area must be completed and open to the public, it is possible that the required public access area would not be completed in a timely manner relative to the adjacent residential and retail development, or perhaps not opened at all. Special Condition II.B.7 is therefore included to ensure that construction of public access improvements associated with each phase of development will commence prior to issuance of building permits for the corresponding development phase. Special Condition II.B.7 also requires that the Phase 1 public access improvements are completed and open to the public no later than the date that half of all residential units in the Phase 1 residential development are occupied, and that Phase 2 public access improvements are completed and open to the public no later than the date that half of all residential units in the Phase 2 residential development are occupied.

- 2. Comparable Projects Approved by the Commission.** The Commission considers its previous actions on comparable projects to help partially inform a decision about whether public access proposed as part of a project represents the maximum feasible scope and type consistent with the project. The Commission has approved several residential or mixed-use development projects at a scale relatively similar to the Alameda Landing Waterfront project (Table 1): the Blu Harbor Residential Development, the Signature at the Estuary Residential Development, and the Hercules Bayfront Creekside Apartments.

- The Blu Harbor Residential Development (BCDC Permit No. 2014.004.00), a 411-unit residential development project at the confluence of Smith Slough and Redwood Creek, in the City of Redwood City, San Mateo County, provided public access improvements on areas totaling approximately 2.55 acres of a 13.81-acre project site, or 18 percent of the project site.
- The Signature at the Estuary Residential Development (BCDC Permit No. 2003.003.00), a 100-unit condominium residential development project in the City of Oakland, Alameda County, provided 1.31 acres of public access at a 4.17-acre site, or 31 percent of its total project area. An 8,826-square-foot area of the total public access was provided as a permanently guaranteed open-water area, with the remaining 1.04 acres (25 percent of the total project area) provided as dedicated public access within the 100-foot shoreline band.
- The Hercules Bayfront Creekside Apartments (BCDC Permit No. 2017.002.00), a 172-unit residential development in the City of Hercules, Contra Costa County, provided public access improvements on areas totaling 0.45 acres of a 2.2-acre site, or 20 percent of the project site.

The Alameda Landing Waterfront project will have approximately 300-400 residential units in total, closest to the unit count of the Blu Harbor Residential Development, and slightly larger than the Signature at the Estuary Residential Development and Hercules Bayfront Creekside Apartments. The Alameda Landing Waterfront project will provide 5.43 acres of public access on a 22.8-acre site, or approximately 24 percent of the total site. This makes the area of public access provided relatively comparable to that of the other projects of its scale shown in Table 1.

Table 1. Public Access Provided in Comparable BCDC-Approved Projects

Project Name	BCDC Permit No.	Number of Residential Units	Total Project Area (acres)	Public Access Area (acres)	Public Access as a Percentage of Total Project Area
Blu Harbor Residential Development	2014.004	402	13.81	2.55	18%
Signature at the Estuary Residential Development	2003.003	100	4.17	1.31	31%
Hercules Bayfront Creekside Apartments	2017.002	172	2.20	0.45	20%
Alameda Landing Waterfront	2018.004	300-400	22.8	5.43	24%

3. **Sea Level Rise and Flooding.** The Commission’s Bay Plan Public Access Policy No. 5 states that “public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.” Policy No. 6 states, in part, “any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise, or equivalent access consistent with the project should be provided nearby.” As outlined further in Findings Section III.A.2, above, the Bay Plan Climate Change Policies also state that a risk assessment should be prepared by a qualified engineer for larger shoreline projects, based on the estimated 100-year flood elevation that takes into account the best estimates of sea level rise. If a risk assessment determines a project would be vulnerable to flooding that threatens public safety, the project should be designed to be resilient to mid-century sea level rise projections and—if the project will be in place beyond mid-century—have an adaptation plan for end-of-century sea level rise based on a risk assessment using the best available science.

Within its 100-foot shoreline band jurisdiction, the Commission may deny an application for a permit only on the grounds that the project fails to provide maximum feasible public access, consistent with the project, to the Bay and shoreline. Therefore, the Commission has limited authority regarding sea level rise over most shoreline development. For example, for this and other projects, the Commission does not have the authority to review the residential areas and other private areas on the shoreline, for issues related to seismic safety or potential impacts from future sea level rise. For work in the 100-foot shoreline band, sea level rise resilience and adaptation requirements imposed by the Commission generally pertain to the public access areas. To ensure maximum feasible public access is provided as part of the project, public access must remain safe, available for use, resilient, and if warranted, be adapted as sea level rises over the life of the project.

The application for the subject permit included a memorandum prepared by BKF Engineers, dated February 1, 2019, which evaluated the potential for flooding at the project site. This memorandum incorporates sea level rise projections consistent with the end-of-century low-emissions scenarios found in the recently updated State of California Sea Level Rise Guidance (“2018 State Guidance”). The 2018 State Guidance represents the current best available scientific data found on sea level rise projections. The 2018 State Guidance recommends use of probabilistic projections to understand and address potential sea level rise impacts, which associate a likelihood of occurrence with sea level increases and rates tied to a range of emissions scenarios.

- a. **Vulnerability of Project Site.** Ground elevations will vary at the project site, meaning that over time, some areas will be more or less vulnerable to flooding during high water levels or storm events.

The majority of the area within the waterfront park will be at the elevation of the existing wharf structure, or +13.0' NAVD88, as the wharf is not proposed to be raised. On the landward edge of the waterfront park, the project includes elements that will be constructed at a higher elevation. Plantings towards the inland edge of the waterfront park will slope from +13.0' NAVD88 to +14.5' NAVD88, and a pedestrian pathway along the inland edge of the waterfront park will be at +14.0' NAVD88. Approximately 2,700 square feet of hardscape and 3,670 square feet of turf areas usable by the public will be constructed at +13.5' NAVD88, adjacent to raised plantings towards the inland edge of the waterfront park.

Inland of the wharf structure (and outside required public access areas), the ground elevation varies, with existing grades as low as +8.0' NAVD88. However, the project will place fill to increase the elevation of the residential and retail development inland of the wharf to +15.0' NAVD88, within the Commission's jurisdiction. Residences in the 100-foot shoreline band will have finish floor elevations at +15.5' NAVD88. Outside of the Commission's jurisdiction, the project will place fill to increase the elevation of the residential development, which will slope downwards across the site from +15.0' NAVD88 within the 100-foot shoreline band to approximately +11.5' NAVD88 at the nearest inland surface street (Mitchell Avenue).

The project site is sufficiently elevated to avoid flooding under today's 100-year flood event conditions. According to the Federal Emergency Management Agency ("FEMA"), current Base Flood Elevation (BFE) for the project site is +9.75' NAVD88, or 3.25 feet below the elevation of the wharf deck. BFE is the elevation to which flood waters are anticipated to rise during a 100-year flood event, which has a 1 percent chance of occurrence in any given year.

- b. **2018 State Sea Level Rise Guidance.** In analyzing a project's risk of flooding as a result of future sea level rise, the Commission currently relies on the sea level rise estimates provided in the 2018 State of California Sea Level Rise Guidance from the Ocean Protection Council and Natural Resources Agency ("2018 State Guidance"), which represents the best available science. The 2018 State Guidance includes a range of sea level rise projections. One set of projections ("low risk") is appropriate for use in projects where decision-makers can be fairly risk tolerant, in that the project is easily adapted, the consequences of failure are low, and so forth. A low risk aversion planning scenario for this project would be to plan for 2.4 feet of sea level rise by 2100 under a low-emissions scenario (i.e., assuming coordinated global reductions in greenhouse gas emissions) and 3.4 feet under a high-emissions scenario (i.e., "business-as-usual" emissions). Another set of projections (H++ scenario) is designed for projects where extreme risk tolerance is called for, because there is little-to-no adaptive capacity or the consequences of flooding to public health, public safety, or environmental impacts would be great. An extreme risk aversion planning scenario (H++ scenario) for this project would be to plan for 10.2 feet of sea level rise by 2100.

The analysis in this permit relies on the State’s projections for projects where a “medium to high” level of risk aversion is called for. The 2018 State Guidance states that the medium to high risk aversion projections are appropriate to provide “a precautionary protection that can be used for less adaptive, more vulnerable projects or populations that will experience medium to high consequences as a result of underestimating sea-level rise (e.g. coastal housing development).”

The medium-to-high risk projections are chosen such that the likelihood that sea-level rise will meet or exceed the projections is low (though they may underestimate the potential for extreme sea level rise). The following analysis therefore anticipates that 1.9 feet of sea level rise will occur at 2050. After 2050, if global greenhouse gas emissions are curbed consistent with the United Nations Framework Convention on Climate Change (UNFCCC) 2015 Paris Agreement—a “low-emissions” scenario—5.7 feet of sea level rise is anticipated to occur at 2100. If global emissions are not aggressively reduced and a “business-as-usual” scenario occurs—a “high-emissions” scenario—6.9 feet of sea level rise is anticipated to occur at 2100.

The medium to high risk aversion scenario is appropriate in analyzing this project in part because the shoreline public access that is required as a condition of development has relatively limited ability to be relocated to an upland location in the future, as the adjacent residential development is located within 10 feet of the boundary of the waterfront park. While the project provides public access areas outside of the waterfront park on the wharf (e.g., the Western Greenway), the area on the wharf constitutes the majority of public access area provided by the project. Additionally, the wharf upon which much of the waterfront park is constructed is not easily adapted. The permittees indicate that extensive retrofit work would be required to raise the grade of the wharf deck and that this option is neither feasible, nor would it be pursued in the future.

Employing the medium-to-high risk scenario at the project site, where the Mean Higher High Water (MHHW) Level is +6.28’ NAVD88, the following water levels would be planned for:

- At 2050, with an anticipated rise in sea level of 23 inches (1.9 feet), the MHHW level would be +8.18’ NAVD88. The water level during a 100-year (1 percent likelihood) storm, would be +11.65’ NAVD88.
- At 2100, assuming a low-emissions scenario, with an anticipated rise in sea level of approximately 68 inches (5.7 feet), the MHHW level would be +11.98’ NAVD88. The water level during a 100-year (1 percent likelihood) storm, would be +15.45’ NAVD88.
- At 2100, assuming a high-emissions scenario, with an anticipated rise in sea level of approximately 83 inches (6.9 feet), the MHHW level would be +13.18’ NAVD88. The water level during a 100-year (1 percent likelihood) storm, would be +16.65’ NAVD88.

- c. **Resilience to Mid-Century Sea Level Rise.** Planning for 1.9 feet of sea level rise by 2050, the project is not anticipated to experience flooding from sea level rise at mid-century, even during a 100-year storm event. The elevation of the wharf structure is approximately 1.35 feet higher (at +13.0' NAVD88) than the projected water level at 2050 (+11.65' NAVD88) during a 100-year storm event with anticipated sea level rise. The in-water dock system is floating, and can rise with increasing water levels. Thus, the public access provided as part of the project is anticipated to be resilient to mid-century sea level rise based on the best available scientific data.
- d. **Public Access Viability to SLR Flooding.** At the end of the century (2100), portions of the project site are anticipated to be subject to occasional flooding, during periods of higher tides and during extreme storm events. This is the case regardless of whether a low-emissions scenario (5.7 feet of sea level rise) or a high-emissions scenario (6.9 feet of sea level rise) occurs.

At +15.0' NAVD88, the residential area within the 100-foot shoreline band could be flooded by the end of the century during a 100-year flood event under a low-emissions scenario and during a 5-year flood event under a high-emissions scenario. The residential areas would not be flooded on a daily or regular basis by 2100. As noted above, however, the Commission's consideration is for the viability and adaptability of the required public access with sea level rise.

The waterfront park components sited on the existing concrete wharf, including the plaza and promenade, could be flooded in a 100-year flood event starting at approximately 2080 under a low-emissions scenario, or at approximately 2070 under a high-emissions scenario. By 2100, these same areas—which represent the majority of the public access provided as part of the project—could be flooded during King Tides (1-year storm event) and greater flood events under a low-emissions scenario, but would not flood at Mean Higher High Water (MHHW). Under a high-emissions scenario, the waterfront park components at the wharf deck elevation could become flooded at MHHW.

Under the low-emissions scenario at 2100, the waterfront park could be flooded by approximately 2.9 inches of water during a King Tide and 2.3 feet (28 inches) of water during a 100-year storm event. The permittees estimate that the waterfront park components on the existing wharf could be impacted by approximately 33 tides per year at the end of the century. Impacts include periodic and limited flooding over portions of the plaza and promenade. The permittees indicate that during periods of flooding, the flooded public access could be closed. Because the majority of the waterfront park will be at the elevation of the existing wharf structure, Commission staff analysis indicates that this flooding and closure could affect the majority of the waterfront park.

There are several components of the waterfront park which are elevated above the wharf deck, and thus have a somewhat reduced risk of flooding compared to the wharf. Approximately 6,370 square feet of the wharf hardscape and turf

areas (roughly 3.2 percent of the total waterfront park) would be elevated to +13.5' NAVD88 and would be usable by the public. These areas would not flood with King Tides (1-year flood event) in 2100 under a low-emissions scenario, but could flood starting with a 2-year flood event. Under a high-emissions scenario, these areas could also flood under King Tide conditions.

A 7-foot-wide pathway along the inland edge of the waterfront park, adjacent to the residential development within the shoreline band, is intended to provide a public access connection along the shoreline in the event that the wharf is flooded. This pathway will be at +14.0' NAVD88. Under the low-emissions scenario, the pathway could begin flooding at 2090 in a 100-year storm event, and then could flood in a 10-year storm event by 2100. Under the high-emissions scenario, the pathway could flood with a 100-year storm starting in 2080, and could flood with King Tides in 2100.

Plantings within the waterfront park (the majority of the approximately 42,000-47,000 square feet of plantings, which in total are roughly 22 percent of the total waterfront park) would be constructed in raised beds that would be elevated to +14.5' NAVD88 where contained by planter walls. These plantings, which would not be available for the public to walk through, could be flooded in a 10-year storm event by 2100 under a low-emissions scenario. A portion of the planting areas would be constructed at existing grade.

- e. **Public Access Adaptive Capacity.** Bay Plan policies on Public Access state: “Any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.” The 2018 State Guidance states that, “Decisions about which sea-level rise projections to select – and the necessary adaptation pathways and contingency plans to ensure resilience – will be based on factors including location, lifespan of the given project or asset, sea-level rise exposure and associated impacts, adaptive capacity, and risk tolerance/aversion.”

For the reasons discussed in the section above, this analysis employs the 2018 State Guidance’s medium to high risk projections for sea level rise. Under these projections, large sections of the public access provided by the project are anticipated to flood during certain tide and storm events. Some public access provided by the project would be sited upland and at the elevation of the residential development, including the Western Greenway and two pocket parks. However, as discussed above, in extreme storm events at the end of the century, the entirety of the waterfront park could be subject to occasional flooding.

The Commission considers the adaptive capacity of the project—that is, the measures that could be employed in the future to ensure public access remains viable, or that alternative equivalent access could be provided nearby (e.g., such as through “managed retreat” that would provide for shoreline access in a different location than today but along the future shoreline). Certain aspects of

this project provide limitations on the adaptive capacity of the project, including (1) the cost involved in raising the existing wharf deck, and (2) the proximity of the residential development to the waterfront park, reducing the area within which a “managed retreat” strategy for public access could be employed.

The permittees have indicated that it would be cost-prohibitive to raise the existing wharf deck to address end-of-century flooding from sea level rise, as anticipated by the 2018 State Guidance for medium to high risk projects. The wharf deck loading is also such that weight constraints cause substantial difficulties in adding material on top of the wharf deck to raise the elevation of the waterfront park. The permittees indicate that retrofitting the wharf to either increase the deck height or allow for additional loading would be both more challenging and more expensive than a wholesale removal and replacement of the wharf structure, due to close spacing of existing piles and work around existing riprap and buried electrical lines. Given the mass of the wharf deck, reconstructing a new deck would likely require lowering the deck closer to the water to withstand lateral forces and loading for seismic safety, which would be counter to increasing the height of the deck to address sea level rise. The permittees also indicate that demolition or replacement of the wharf structure would be financially infeasible. The permittees state that the work proposed as part of this project is feasible, in part, because the portion of the wharf with the highest removal or replacement costs will remain in the Bay and will be integrated into the final design. Therefore, the permittees believe the project is limited in terms of large-scale adaptive responses to sea level rise that would involve changes to the wharf structure.

The area within which the shoreline public access could retreat over time as sea levels rise is limited by the design of the proposed location and extent of the residential development provided as part of this project. Residential units are to be located approximately 10 feet inland of the landward boundary of the waterfront park. Because of the siting of the residential development, there is limited physical space within which upland public access could be provided that would be available during storm events at the end of century when flooding is anticipated to occur. Therefore, while upland public access spaces will be provided, including the Western Greenway and two pocket parks that will be constructed at +15.0' NAVD88 (the elevation of the adjacent residential development), the 7-foot-wide path at the back of the park that could provide a continuous shoreline connection to the inland public access areas would flood when storm waters reached approximately +14.0' NAVD88 unless future adaptive measures are employed, such as raising the path or constructing a barrier Bayward of the path.

- f. **Adaptation Measures.** As part of the application, the permittees proposed raising a portion of the public access area to address future flooding that could occur on the wharf deck. The project therefore includes a 7-foot-wide pathway along the inland edge of the waterfront park that will be constructed to +14.0'

NAVD88, one foot higher than the wharf deck. This will provide for a more resilient shoreline path at the back edge of the waterfront park that could remain functional during certain tidal and storm-driven conditions when the lower-lying portions of the park would flood. The 7-foot-wide elevated pathway, while a foot higher than the wharf deck, could flood in a 10-year storm event by 2100, under the low-emissions scenario described above, and could flood with King Tides in 2100, under the high-emissions scenario described above.

At such time as occasional flooding of the public access area does occur, the permittees have indicated that interim measures to address occasional flooding could include: (1) Implementing a public notification system with signage and closures when areas of the public access (e.g., the wharf deck) flood; and (2) Installing venting portals through the wharf deck that would provide a pathway for potential trapped air pockets from rising tides and wave action. Signage and closures would prevent the public from accessing the wharf deck under unsafe flooding conditions. The venting portals would help relieve pressure and maintain structural safety of the wharf with sea level rise.

At such time as flooding becomes more regular and impacts the public's ability to make use of the waterfront park, the permittees have indicated to Commission staff that the public access area could be modified to ensure that a larger portion of the waterfront park could be protected against flooding associated with future sea level rise. Adaptation measures could include raising the grade of a portion of the public access area, installing protective barriers, or another method. The permittees indicate that, given loading constraints on the wharf deck, the exact area that could be protected by various methods would require further study and would vary based on the adaptive method selected. However, the permittees state that, at minimum, adaptive measures could be implemented to ensure a continuous east-west shoreline public access corridor an average of 31 feet in width running along the inland edge of the waterfront park. This width roughly corresponds to the front edge of the planting areas shown in the current waterfront park design (Exhibit A).

Given the anticipated intermittent flooding at the project site under both the low-emissions and high-emissions scenarios by the end of the century, and the limited adaptive capacity associated with the public access required herein, Special Condition II.E is included so that that necessary planning and implementation occur to ensure the public access areas are adapted and remain viable for public use over time. The condition includes three parts: (1) Special Condition II.E.1 requires notification of flooding events caused by sea level rise, to establish a "trigger" by which adaptation planning efforts will commence; (2) Special Condition II.E.2 establishes a timeline during which such adaptation planning efforts will commence; and (3) Special Condition II.E.3 establishes the requirements of an adaptation plan that will be reviewed by the Commission and provide the basis for the adaptation measures ultimately implemented. More specifically:

- (1) **Special Condition II.E.1** requires that the permittees notify the Commission following closure of any portion of the required public access due to coastal flooding that occurs two or more times within a given 12-month period. When flooding occurs at this regularity, it will signal the need for a planning process to identify the optimal adaptive measures and timelines for their implementation.
 - (2) **Special Condition II.E.2** requires that the permittees submit a sea level rise adaptation plan for the Commission's review and approval within 180 days following the second closure caused by coastal flooding within a given 12-month period. Such a plan is intended to provide for the timely development of adaptation actions for the site as soon as sea level rise begins to impact the required public access through Bay overtopping of the shoreline during tides, storms, or both.
 - (3) **Special Condition II.E.3** establishes the requirements for such a plan, the goal of which is to ensure that shoreline public access is maintained to the greatest extent feasible and that such access will continue to function given sea level rise conditions. Special Condition II.E.3 provides for flexibility in the ultimate adaptation response. It would allow for the reduction in the total area of public access (i.e., some areas could be allowed to flood in the future) provided the overall shoreline public access is enhanced through a redesign of the shoreline. Alternatively, the permittees may propose an equivalent public access area that provides maximum feasible public access to the shoreline in this location. Whatever adaptation strategy is pursued, Special Condition II.E.3 requires that, at minimum, the sea level rise adaptation plan ensure that a minimum 31-foot-wide continuous east-west shoreline public access area be provided that is protected to the same degree as the upland development authorized herein (including the residential development), and that this continuous public access area include, at minimum, a shoreline trail that meets Bay Trail design standards with connections to Fifth Street, the Western Greenway, and the pocket parks. Outside of the minimum 31-foot-wide area, the adaptation plan is required to protect the maximum feasible area of public access from coastal flooding, maximizing the size and usability of the public access areas. Special Condition II.E.3 also requires that the adaptation plan establish an implementation timeline and that the adaptation plan be based on the best available science. These requirements are included to ensure that the required public access remains viable with anticipated sea level rise or that equivalent access is provided, and that the project therefore continues to provide maximum feasible public access consistent with the Commission's law and Bay Plan policies on Public Access and Climate Change.
4. **Barrier-Free Access.** Bay Plan Public Access Policy No. 7 states, in part: "Public access improvements provided as a condition of any approval...should permit barrier free access for persons with disabilities to the maximum feasible extent."

The waterfront promenade and plaza will have level surfaces and will be universally accessible. Two ADA public parking spaces will also be provided. Additionally, the gangway and dock system will be ADA-accessible, including the kayak launch. The application notes that: “The dock system will provide barrier free access for persons with disabilities to water-oriented recreational facilities in the Bay Area.” Special Condition II.A which requires final plan review approval, will ensure that public access improvements constructed as part of the project permit barrier-free access to the maximum feasible extent.

5. **Operations and Maintenance.** Bay Plan Public Access Policy No. 7 states, in part: “Public access improvements provided as a condition of any approval...should include an ongoing maintenance program.”

While the co-permittees are jointly responsible for compliance with all of the terms of this permit, Catellus Alameda Development LLC plans to construct and dedicate the public access improvements, including the waterfront plaza and promenade, which the City of Alameda will then own, operate, and maintain. The residential and commercial portions of the site will be built out by a vertical developer, and operated and maintained through a Municipal Services District (MSD). The MSD will contribute funds to the ongoing maintenance of the public access, including the wharf structure underlying the waterfront park. Catellus Alameda Development LLC plans to assign its obligations under this permit to the future Homeowners Association for the residential development once the residential development is completed.

6. **Residential Development and Development Controls.** The project involves construction of residential units that face onto a waterfront park. While the Commission’s design guidelines encourage development that takes full potential of its shoreline setting, when residential uses and public access areas are built in close proximity, the design must be carefully considered in order to ensure that public areas still “feel public” and operate in such a way that no actual or perceived barriers to use of the space by members of the public will exist. In order to ensure that the residential development is constructed to minimize impacts to the public’s experience of the waterfront park and views of the Bay, in keeping with the recommendations of the Design Review Board, a series of development parameters are defined in the authorization for the residential development to be constructed within the Commission’s jurisdiction. These controls require the following: residential buildings must be set back a minimum of 100 feet from the edge of the wharf deck and 10 feet back from the sidewalk that defines the back edge of the waterfront park, with limited minor encroachments allowed (e.g., roof overhangs); pedestrian connections to the shoreline must be provided through the neighborhood; primary entrances to the residential units must face the waterfront park and not the inland side of the building; buildings may not exceed a maximum roof height of 60 feet to avoid overwhelming the adjacent park area; substantial fences and decks on the Bayward (waterfront park) side of the housing units are prohibited; within the area of residential units, the exact configuration of which may

change somewhat from the plans shown on Exhibit A, the two pocket parks and five view corridors required under Special Conditions II.B.4 and II.C are to be provided; and the landscaped area that would create the interface between the residential buildings and the waterfront park should be completed at the time of construction of the waterfront park.

For the reasons discussed above, the Commission therefore finds that the project, as conditioned, is consistent with the McAteer-Petris Act laws and Bay Plan policies on Public Access.

- C. **Recreation.** Bay Plan Recreation Policy No. 1 states, in part: “Diverse and accessible water-oriented recreational facilities, such as launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels...”

Bay Plan Recreation Policy No. 4 speaks to facilities that should be provided in waterfront parks, such as the proposed waterfront park that would be constructed as part of this project. The policy states: “Where possible, parks should provide...docking and picnic facilities for boaters.... Recreational facilities that do not need a waterfront location, e.g., golf courses and playing fields, should generally be placed inland, but may be permitted in shoreline parks if they are part of a park complex that is primarily devoted to water-oriented uses, or are designed to provide for passive use and enjoyment of the Bay when not being used for sports.... Public launching facilities for a variety of boats and other water-oriented recreational craft, such as kayaks, canoes and sailboards, should be provided in waterfront parks where feasible.... Trails that can be used as components of the San Francisco Bay Trail...should be developed in waterfront parks. San Francisco Bay Trail segments should be located near the shoreline unless that alignment would have significant adverse effects on Bay resources... Bus stops, kiosks and other facilities to accommodate public transit should be provided in waterfront parks to the maximum extent feasible. Public parking should be provided in a manner that does not diminish the park-like character of the site. Traffic demand management strategies and alternative transportation systems should be developed where appropriate to minimize the need for large parking lots and to ensure parking for recreation uses is sufficient.... Interpretive information describing natural, historical and cultural resources should be provided in waterfront parks where feasible....”

“Signs and other information regarding shipping lanes, ferry routes, U.S. Coast Guard rules for navigation, ...weather, tide, current and wind hazards...and safety guidelines for smaller recreational craft, should be provided at...boat ramps, launch areas...and other recreational watercraft use areas.”

The proposed project would provide new public access to the Bay, through the construction of a waterfront park and greenway. The project would provide amenities for walking, running, cycling, picnic facilities, kayak launching, a public dock, and historical education and interpretation, as required in Special Condition II.B.4, in line

with the Bay Plan policies for waterfront parks. The project includes an extension of the San Francisco Bay Trail along the entire waterfront of the site, as required in Special Condition II.B.4, connecting with an existing shoreline trail to the east and surface streets to the south. Bicycle racks would be provided at the site, as required in Special Condition II.B.4, which would encourage alternative transportation to the site, in conjunction with the extension of the Bay Trail. Public parking would be provided on site near the AMP substation, a location that is not immediately adjacent to the water and does not segment the promenade or plaza areas, but would also provide for kayak drop-off and ADA-accessible parking spaces that are closer to the promenade and plaza than the remainder of the parking. A comprehensive signage plan would be incorporated into the waterfront park, including wayfinding, Bay Trail, interpretive, regulatory, and park naming signage. Special Condition II.B.5 requires that the permittees submit a signage plan for approval through the plan review process, which includes safety signage for the dock system in addition to the other signage types.

For the reasons discussed above, the Commission therefore finds that the project, as conditioned, is consistent with Bay Plan policies on Recreation.

- D. **Appearance, Design, and Scenic Views.** The Bay Plan Appearance, Design, and Scenic Views policies state, in part, that “[a]ll bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay” and that “[m]aximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas...” Furthermore, “[s]tructures and facilities that do not take advantage or 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....” The policies also state that “[s]horeline developments should be built in clusters, leaving areas open around them to permit more frequent views of the Bay...” and that “[v]iews of the Bay from vista points and from roads should be maintained by appropriate arrangements and heights of all developments and landscaping between the view areas and the water.”

The proposed Alameda Landing Waterfront project residential development would include a network of new internal streets that lead to the shoreline, delineating clusters of housing units. Thus, while the proposed project would result in the construction of residential and commercial buildings, views of the Bay from Mitchell Avenue—the nearest existing public street inland of the project site—would still be provided. To ensure that views of the Bay are preserved, the project would also establish five view corridors, including: (1) A 75-foot-wide view corridor in line with Fifth Street, which is designed to create an axial public view along Fifth Street in Alameda to Jack London Square and up Broadway across the Estuary in Oakland; (2) A 50-foot-wide view corridor along the western edge of the property, in line with the Western Greenway; (3) A 40-foot-wide east-west view corridor along an internal vehicular street, which would provide views of the Bay and maritime uses on the adjacent property to the west; and (4) Two 40-foot-wide north-south view corridors in line with internal streets through the

residential neighborhood. The layout of the residential development has not yet been finalized within its overall footprint. As such, the two north-south view corridor locations would be subject to change in the final residential development plan.

Therefore, Special Condition II.C requires plan review of the final locations of the north-south view corridors to ensure that the siting provides appropriate views of the Bay. Special Condition II.C.2 requires that all five view corridors be dedicated as such via a legal instrument, to ensure that views to the Bay will be preserved consistent with the application. Special Condition II.C.3 also provides restrictions on allowable plantings and other development within the view corridors.

Special Condition II.B.6 is included to allow for review by or on behalf of the Commission of a Public Art Plan, which will detail the design and siting criteria for public art installations in public access areas and view corridors in order to ensure the public art program takes appropriate measures to avoid adverse impacts to scenic views and is generally compatible with public use of the public access areas.

For the reasons discussed above, the Commission therefore finds that the project, as conditioned, is consistent with Bay Plan policies on Appearance, Design, and Scenic Views.

E. Review Boards

1. **Engineering Criteria Review Board.** The proposed project was first reviewed by the Commission's Engineering Criteria Review Board (ECRB) on March 21, 2017 for seismic and engineering design safety related to the historic wharf. At that time, the original project consisted of a 40-acre development that would have included residential units, retail, office space, a hotel, a warehouse, and shoreline access. In summer 2017, Catellus Alameda Development LLC reached an agreement with the City of Alameda to maintain the western portion of the wharf for maritime-industrial uses, and the project was reduced in scope to include only the 22.8-acre subject parcel. The revised project was reviewed by the ECRB on September 26, 2018, and again on November 13, 2018.

At its September 26, 2018 meeting, the ECRB reviewed the engineering criteria for the safety of the historic wharf and adjacent soil improvements. The ECRB had questions, in part, on the removal of a portion of the wharf, pile damage and restoration, wave passage effects on the wharf structure, wharf joints and displacements, criteria for sea level rise and flooding, the project design stage, and slope stability analysis. The ECRB recommended seismic instrumentation at both ends of the wharf structure, and generally concurred with the permittees that major retrofits did not appear to be needed to meet the structural criteria and that pile repairs appeared to be appropriate over a longer time frame rather than being necessary before public use of the wharf.

The ECRB requested that the project sponsors provide the following to address the Board's remaining questions and concerns: (1) Develop estimates of relative displacements induced by wave passage effect and determine if seismic joint criteria

are consistent with anticipated wave-passage displacements; (2) Augment three component seismic instrumentation with additional instruments; (3) Introduce new notation to refer to average shear velocities in bedrock; (4) Provide a Deep Soil Mix (DSM) plan that explains installation and performance criteria to minimize potential lateral movement of underlying bay mud; (5) Provide criteria for minimization of potential environmental impacts of DSM and fill emplacement on additional material moving into the Bay; (6) Identify sea level inundation zone and associated criteria for the wharf; and (7) Provide criteria for characteristics of fill to be added landward of the wharf, including that of cellular concrete and its buoyancy potential if inundated by water.

In response to the ECRB's comments, the permittees prepared and submitted statements to the ECRB from the project's engineers, including Atlas Geotechnical, Langan, Simpson Gumpertz & Heger, Inc., Advanced Geotechnical Solutions, Inc., SGH, and BKF. The ECRB reviewed these statements at their November 13, 2018 meeting. The ECRB accepted the responses of the permittees, and indicated that Catellus was following appropriate criteria for the safety of the wharf, including with anticipated sea level rise.

2. **Design Review Board.** The proposed Alameda Landing Waterfront project was reviewed by the Commission's Design Review Board (DRB) on July 9, 2018 and on October 15, 2018. At its first review, the DRB expressed the need for additional information regarding the residential development design in order to provide guidance on the design of the public access components. The DRB's recommendations focused, in part, on:
- Making the interface of the residential units and public access areas feel public, such as through shifting building entrances back and creating transition zones;
 - Providing stronger connections through the site, including additional opportunities for view corridors, adding permeability to the design of the residential development, and ensuring the Western Greenway functions as a welcoming public space;
 - Creating design elements to help the space feel more public, such as a more architectural solution around the perimeter of the AMP substation, separating residential parking from view of the park, and siting retail with proximity and connectivity along the shoreline;
 - Addressing concerns related to plantings on the wharf deck, including providing plantings in solid ground where possible, moving trees away from buildings, and minimizing the amount of plantings on the wharf deck; and
 - Better addressing the resilience and adaptability of the public access to sea level rise.

On October 15, 2018, the DRB reviewed a revised project proposal, including two conceptual residential development plan alternatives. The DRB focused their further recommendations, in part, on:

- Reinforcing connections through the site to the water, including design elements to communicate to the public what is public versus private, aligning streets and view corridors, addressing the offset of the roundabout from the Fifth Street view corridor, including trees along the view corridors to assist with scale and preserving view lines next to the potential future bridge, and establishing clear site circulation for cars, bikes, and pedestrians;
- Addressing concerns related to plantings, including the survivability and usability of plantings in planter boxes, allowing for more green areas, using live turf, and creating better transitions between the deck and plantings;
- Making the waterfront promenade, plaza, and other public access areas more welcoming to and usable by the public, including through adjusting the proportions of the promenade and plaza designs and providing protection from the elements; and
- Demonstrating that the project has capacity to adapt to end-of-century sea level rise and developing a plan for adaptation.

In response to the DRB's October 15, 2018 comments, the permittees indicate that they have developed an alternative planting layout with an increase in planting areas, with viability to be determined based on dead-load weight analysis. The permittees have also added design elements such as planters, benches, and a gathering space; tightened the radius of the plaza arc and adjusted the pergola size; simplified paving patterns at the plaza entry from Fifth Street to address concerns related to the roundabout; and modified the plaza paving to address DRB comments.

- F. **Environmental Review.** On December 5, 2006, the City of Alameda, as the lead agency, certified the Final Environmental Impact Report for the Alameda Landing Waterfront Mixed Use Development Project, which was a supplemental environmental document to the 2000 Catellus Mixed Use Development Project EIR. On July 18, 2017, the City of Alameda approved an Environmental Assessment of the Bayport/Alameda Landing Waterfront Master Plan Amendment.
- G. **Conclusion.** For all the above reasons, the Commission finds, declares, and certifies that, subject to the special conditions stated herein, the project authorized herein is consistent with the *San Francisco Bay Plan*, the McAteer-Petris Act, the California Environmental Quality Act, 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 permit shall not take effect unless the permittee(s) execute the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.
- B. **Notice of Completion.** The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.
- C. **Permit Assignment.** The rights, duties, and obligations contained in this permit are assignable. When the permittees transfer any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittees/transferors and the transferees shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and understand the permit and agree to be bound by the terms and conditions of the permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.
- D. **Permit Runs With the Land.** Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.
- E. **Other Government Approvals.** All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittees of any obligations imposed by State or Federal law, either statutory or otherwise.
- F. **Built Project must be Consistent with Application.** Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.
- G. **Life of Authorization.** Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.
- H. **Commission Jurisdiction.** Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not

subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

- I. **Changes to the Commission's Jurisdiction as a Result of Natural Processes.** This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.
- J. **Violation of Permit May Lead to Permit Revocation.** Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittees or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittees or their assignees if the permit has been assigned.
- K. **Should Permit Conditions Be Found to be Illegal or Unenforceable.** Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittees or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.
- L. **Permission to Conduct Site Visit.** The permittees shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.
- M. **Abandonment.** If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittees, their assignees or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.
- N. **Best Management Practices**
 1. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittees, their

assignees, or successors in interest, or the owner of the improvements, shall remove such material, at their expense, within ten days after they have been notified by the Executive Director of such placement.

2. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling, washing or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittee 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 permittees shall contact Commission staff to confirm current restricted periods for construction.