

San Francisco Bay Conservation and Development Commission

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May 7, 2026

Staff Recommendation

State Route 37 Sears Point to Mare Island Interim Improvement Project: Phase 1 - SR37/SR121 Intersection and Tolay Creek Bridge Replacement

(For Commission consideration on May 7, 2026)

Permit Application Number:	2025.003.00
Applicant:	California Department of Transportation (Caltrans)
Project Description:	Conduct interim improvements to State Route 37, including replacement of a small bridge over Tolay Creek with a longer and wider bridge, widening of a section of the highway, and removal of fill from Tolay Creek and Lagoon
Location:	In the Tolay Creek Certain Waterway Jurisdiction on State Route 37 and State Route 121 in Napa, Sonoma, and Solano Counties, between post miles (PMs): 04-SON-SR 37 (PM 2.9/6.2); 04-SOL-SR 37 (PM 0.0/R7.4). 04-SON-121 (PM 0.0/0.2)
Application Filed Complete:	March 3, 2026
Deadline for Commission Action:	June 1, 2026
Staff Contact:	Rowan Yelton (415-352-3613; rowan.yelton@bcdc.ca.gov)
Staff Recommendation:	APPROVAL WITH CONDITIONS

Basis for Staff Recommendation

The staff recommends approval of the application for the State Route 37 Sears Point to Mare Island Interim Improvement Project: Phase 1 - SR37/SR121 Intersection and Tolay Creek Bridge Replacement (Interim Project Phase 1) as conditioned in the recommended resolution, below. The project will consist of improvements to State Route 37 (SR37), including replacement of a small bridge over Tolay Creek with a longer span bridge, widening of a section of the highway, and removal of fill from Tolay Creek and Lagoon. The proposed project is in the Lower Tubbs Island Wildlife Priority Use Area established by the San Francisco Bay Plan. Among other things, the recommended resolution includes special conditions to:



- Require nearby public access improvements
- Require tidal marsh restoration and monitoring
- Implement measures to protect natural resources and water quality during construction

The project itself will result in the expansion of BCDC Tolay Creek Certain Waterways Jurisdiction (certain waterways) at the mouth of Tolay Creek south of SR37 (0.51 acres), the permanent solid fill of certain waterways along the southern border of SR37 (0.79 acres), permanent cantilevered overwater fill from the new bridge of 0.07 acres, and the creation of new waters outside of BCDC jurisdiction, north of SR37 on Tolay Creek (0.63 acres).

Recommended Resolutions and Findings

The staff recommends the Commission adopt the following resolutions:

I. Authorization

A. Authorized Project

Subject to the conditions stated below, the permittee is granted permission to do the following in the Tolay Creek Certain Waterway along the State Route 37 right-of-way between post miles 2.9 and 4.9 in Napa, Solano and Sonoma Counties:

State Route 37 Sears Point to Mare Island Interim Improvement Project: Phase 1 - SR37/SR121 Intersection and Tolay Creek Bridge Replacement (Interim Project Phase 1).

At Tolay Creek, within Certain Waterways Jurisdiction:

1. Remove the 40-foot-wide, 60-foot-long, 2-lane Tolay Creek Bridge.
2. Construct a section of a new 92-foot-wide and 375-foot-long, 5-lane bridge supported by 5 cast-in-drilled-hole piles with 4-foot-diameter steel casings and secant pile wall abutments, and a 3- to 5-foot-wide earthen bench at the high tide line along the western abutment of the new bridge to provide wildlife connectivity under the bridge.
3. Remove existing compacted roadway material in the Tolay Creek channel to convert existing uplands to 0.51 acres of new open water and wetlands in BCDC jurisdiction.
4. Temporarily place 1,700 linear feet of sheetpiles to dewater 1.56 acres of Tolay Creek during construction.
5. Widen the SR37 roadway east of the SR37/SR121 interchange.
 - a. Expand the road by widening it on the southern edge into tidal marsh and construct embankment confinement systems (with 1:1 slope, 2,050 linear feet), 0.03 acres of retaining walls (710 linear feet) supported by 800, 16-inch-diameter steel pipe piles. The roadway will be widened an average of 12 feet and maximum 20 feet in BCDC jurisdiction.

- b. Construct new outside barriers, drainage pipes, culverts, guardrails, overhead lighting, and new signs on the bridge and on Tubbs Island.

B. Permit Application Date

This authority is generally pursuant to and limited by the application received November 4, 2025, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions hereto.

C. Deadlines for Commencing and Completing Authorized Work

Work authorized herein must commence prior to December 31, 2028, or this permit will lapse and become null and void. All work authorized herein must be completed by December 31, 2033, unless an extension of time is granted by amendment of the permit.

D. Term Limit of Authorization

The authorization for the replacement bridge and widened road within BCDC jurisdiction shall expire December 31, 2049, unless a time extension is issued by or on behalf of the Commission pursuant to Special Condition II.I.2.

E. Project Summary

The purpose of the Interim Project Phase 1 is to widen the SR37 highway to increase automobile capacity along an approximately one-mile segment of the road, and to lengthen the Tolay Creek Bridge to improve tidal connectivity and habitat conditions at Tolay Creek. Improvements to the SR37/SR121 interchange are also included in the project, but those improvements occur outside of BCDC jurisdiction. The project is within BCDC Certain Waterways Jurisdiction, which extends to the northerly line of Sears Point Road (including SR37 and the Tolay Creek Bridge). As much of the area south of SR37 on Tubbs Island is tidal marsh, that tidal marsh is included in the Certain Waterway.

By lengthening the bridge from 60 feet to 375 feet and removing fill in the historic Tolay Creek watershed adjacent to the existing bridge, the area of Tolay Creek waters under and adjacent to the newly lengthened bridge will increase by 0.51 acres in BCDC's Certain Waterways Jurisdiction, and by 0.63 acres north of the bridge, outside of BCDC jurisdiction. Fill will be placed in tidal marshes of the Certain Waterway to build retaining walls and embankments, and widen a section of SR37 by an average of 12 feet, resulting in 0.79 acres of solid fill in the Certain Waterway. The new bridge will also result in 0.07 acres of cantilevered fill in the Certain Waterway.

The interim project is divided into three phases, of which this authorized project is the first phase. The second and third phases will be processed together under one permit application, will include the widening of the remaining section of 2-lane highway



between Tubbs Island and Vallejo, and is planned for completion by 2032. The bridge and road constructed and modified by the interim project are planned to be superseded by a raised causeway by 2050 (Long-Term SR37 Adaptation Project), after which the highway will be removed.

F. Related Permits

M1995.046.00, issued to Caltrans on January 24, 1996, authorized widening of SR37 into the 100-foot shoreline band, excavation of tidal channels for habitat enhancement, and installing public access improvements along SR37 at Sonoma Creek.

M1983.002.00, issued to the Greater Vallejo Recreation District on February 10, 1983, authorized the creation of the River Park Public Access Path in Vallejo. Special Condition II.B requires an in-lieu fee contribution to the City of Vallejo for improvements at River Park.

II. Special Conditions

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

A. Specific Plans and Plan Review

1. Construction Documents

The development authorized herein shall be built generally in conformance with the 95% plan set entitled “Project Plans for Construction on State Highway in Sonoma County Near Vallejo on Route 37 from 1.0 Mile West of Route 121 to 0.9 Mile East of Tolay Creek Bridge and on Route 121 from Route 37 to 0.2 Mile North of Route 37,” Regional Project Manager Javier Mendivil, submitted February 23, 2026 as part of the application for this project (“Construction Documents”). The permittee is responsible for assuring that the Construction Documents accurately and fully reflect the terms and conditions of this permit and any legal instruments submitted pursuant to this authorization. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

2. Documents Review and Approval

As the Construction Documents with the application were not final at the time of permit application filing, 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 45 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 45-day period, the permittees may carry out the project authorized herein in a manner substantially consistent with the plans referred to in Special Condition II.A.1 of this permit.

a. Document Details

Construction documents shall be labeled, as appropriate, 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)); 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 view corridor(s) 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.

d. Reconsideration of Plan Review

The permittee may request reconsideration of a plan review action taken pursuant to this special condition within 30 days of a plan review action by submitting a written request for reconsideration to the Commission's Executive Director. Following the Executive Director's receipt of such a request, the Executive Director shall respond to the permittee within 30 days 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 Engineering Criteria Review Board.

B. Public Access

The permittee shall convey \$443,160 to the City of Vallejo for paving the existing unpaved trail at River Park in Vallejo, and an additional \$250,000 for invasive plant management, native planting, or other similar public access improvement at the park. The permittee shall submit proof of the transfer of funds by December 31, 2028.

The permittee shall ensure that existing public access areas at or near the project site, including the Tubbs Island Trailhead, remain open to the public during construction.

C. Environmental Protection

The permittee shall take appropriate precautions to avoid adverse impacts to the Ridgway's rail, black rail, longfin smelt, delta smelt, western burrowing owl, salt marsh harvest mouse, Suisun shrew, northwestern pond turtle, saline clover, San Joaquin spearscale, soft bird's beak, salt marsh common yellowthroat, white tailed kite, Chinook salmon, green sturgeon, and all other native species that may occur at the project site.

- 1. Modifications to Species Protections.** No work inconsistent with these conditions II.C.2-12 may be conducted without the approval of the Executive Director, provided that such approval may only be issued after (1) consultation with the U.S. Fish and Wildlife Service and/or NOAA National Marine Fisheries Service, (2) consultation with California Department of Fish and Wildlife; and (3) the Executive Director has determined that the modifications do not pose any significant impacts to species materially different or in addition to those already considered and conditioned for under this permit; and (4) are consistent with the ultimate permits/authorizations issued by NMFS, USFWS, and CDFW referenced in Special Conditions II.C.7-9 below. All documents are reviewed within 45 days of receipt.
- 2. Dewatering.** The Temporary Creek Diversion System used at Tolay Creek for the bridge replacement shall include a temporary pipe/culvert system to allow water to bypass the dewatered area and shall be installed using vibratory methods only between June 1 and November 30, and shall be in place only during that work window.

The Temporary Containment System of steel sheet piles (used along the edge of the road to dewater the area for construction of the road expansion, retaining walls and embankments) shall be installed using vibratory methods between June 1 and November 30, and may remain in place between work seasons, for up to 24 consecutive months.
- 3. Pile Driving.** Vibratory pile installation shall be used preferably, and impact driving only used when otherwise infeasible. Impact driving shall not be conducted in the water and may be conducted year-round.

4. **Construction Operations and Debris Removal.** Best management practices shall be employed during construction to prevent construction materials from falling, washing or blowing into the water or tidal marshes. Floating debris barriers and absorbent booms shall be used to capture any construction debris and petroleum products that may be discharged into the environment as a result of the operation. 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. Construction materials and debris shall be stored sufficiently far from the water and tidal marshes to assure that they will not accidentally end up in these habitats. After construction, all construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that either earth material or construction debris washes into the water or tidal marshes during construction, the permittee shall immediately retrieve and remove such material at its expense, and institute corrective measures to prevent future occurrences.
5. **Creosote Treated Wood.** No pilings or other wood structures that have been pressure treated with creosote shall be installed in any area within the Commission's jurisdiction as part of the project authorized herein.
6. **Temporary Construction Fill.** All temporary fill for construction and excavation shall be removed within three months of project completion, unless specific authorization is given by the Commission through further amendment to this permit.
7. **U.S. Fish and Wildlife Service (USFWS) Consultation.** The permittee shall conduct all project activities in compliance with the USFWS consultation/approval that will be issued for this project, including all conservation measures and compensatory mitigation requirements. Once issued, the permittee shall submit a copy of the consultation/approval to BCDC. No construction shall commence until the document is submitted to BCDC.
8. **National Marine Fisheries Service (NMFS) Consultation.** The permittee shall conduct all project activities in compliance with the Endangered Species Act Section 7(a)(2) Concurrence Letter for the State Route 37/121 Intersection and Tolay Creek Bridge Replacement Project (04-1Q76U) issued by NMFS on December 12, 2025.
9. **California Department of Fish and Wildlife (CDFW).** At the time of issuance, the permittee indicated to BCDC that they have applied to CDFW for a Lake and Streambed Alteration Agreement (LSAA) and an Incidental Take Permit (ITP). Once these are issued, prior to construction, the permittee shall submit a copy of the documents to BCDC. The permittee shall conduct all project activities in compliance with the ITP and LSAA. No construction shall commence until the ITP and LSAA are submitted to BCDC.

10. **Water Quality Certification.** The permittee shall conduct all project activities in compliance with the “California Regional Water Quality Control Board San Francisco Bay Region Order No. R2-2026-0007 Waste Discharge Requirements and Clean Water Act Section 401 Water Quality Certification For: California Department of Transportation State Route 37/121 (SR 37/121) Intersection and Tolay Creek Bridge Replacement Project, Sonoma County”, dated February 11, 2026.
11. **Marsh and Bay Habitat Protection During Construction.** The work authorized by this permit shall be performed in a manner that will prevent, avoid, or minimize to the extent possible any significant adverse impact on any tidal marsh, other sensitive wetland resources, and existing native upland vegetation. The permittee shall comply with all minimization and avoidance measures submitted as part of the application (Exhibit A).
12. **Tidal Marsh Restoration and Monitoring.** The permittee shall ensure that all disturbed tidal marsh areas are restored as soon as possible and completely restored within 5 years of project completion. Prior to commencing construction, the permittee shall submit a final Restoration and Monitoring Plan, based on the Draft Restoration and Monitoring plan dated October 2025, for review and approval by or on behalf of the Commission. All documents are reviewed within 45 days of receipt. Prior to project construction, the permittee shall take vegetation monitoring data to establish the baseline marsh conditions at representative locations across the project site and reference sites. Pre-construction monitoring shall be conducted consistent with the methods described in the Restoration and Monitoring Plan. The permittee shall submit the results of the pre-construction survey to the Commission for review and approval before construction may commence.

Annual monitoring reports shall be sent to the Commission for review by February 28 of the year following the monitoring. The first annual report shall be submitted the year after the first full growing season post-construction. If success criteria are not met by Year 5, the permittee shall work with the Commission and appropriate regulatory agencies to develop and implement adaptive management measures, and additional compensatory mitigation may be required. The permittee shall continue monitoring until success criteria have been met or the Commission finds that site restoration is on track to achieve success criteria. The monitoring requirements may be extended if the success criteria have not been achieved by the end of the monitoring period. Adaptive management measures may require additional authorization through plan review or an amendment to this permit.

D. Post Construction Report

Within 30 days of project completion, the permittee shall submit a post construction report containing as-built information and photographs of the constructed project, including road, bridge, Tolay Lagoon, and staging areas.

E. Permission to Conduct Site Visit

The permittees shall grant permission to any member of the Commission's staff to conduct a site visit to 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, and that the ongoing conditions of the permit are followed. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

F. Notice to Contractor

The permittee shall provide a copy of this permit to any contractor or person working in concert with the permittee to carry out the activities authorized herein and shall point out the special conditions contained herein.

G. Sea Level Rise Adaptation Planning Updates

The permittee shall submit to the Executive Director a written document containing SR37 Long Term Planning and Sea Level Rise Updates to the Commission in 2030, 2035, 2040, and 2045, containing:

1. A report on flooding damage and closures to the highway since permit issuance and each preceding five-year sea level Rise update and projections of future closures and damage over the remaining life of the project. The report shall document: the date, duration, and status of any closure(s); the location of the affected area(s); a description of the event(s) that caused the closure(s); and any resulting damage and needed cleanup or repairs.
2. An updated sea level rise risk assessment for the area based on the estimated 100-year flood elevation that takes into account the best available estimates at that time of future sea level rise to 2100.
3. An update on the status of the Long-Term SR37 Adaptation Project to replace the highway with a causeway or other alternative adapted to sea level rise.
4. Assurance that the Long-Term SR37 Adaptation Project will be built by 2050, or a plan for adaptation of the current highway that takes into account the updated sea level rise risk assessment required by subparagraph G.2 above in order to prevent increased frequency and duration of flooding-related road closures until the long-term replacement project is completed.

The report shall be submitted by December 31 of each year due. Additionally, the permittee shall present the information listed above to the Commission at a public meeting briefing within one year of each report submission.

H. Permitting Future SR37 Projects

The permittee shall submit a complete BCDC permit application by December 31, 2028, for the phases 2 and 3 of the State Route 37 Sears Point to Mare Island Interim

Improvement Project, as described in the State Route 37 Sears Point to Mare Island Improvement Project Napa, Sonoma, and Solano Counties, California Final Supplemental Environmental Impact Report.

The permittee shall submit a complete BCDC application for the Long-Term SR37 Adaptation Project to replace the bridge and section of highway authorized by this permit (post miles 2.9- 4.9) with a causeway by December 31, 2044.

I. Expiration and Removal of Interim Project

1. The permittee acknowledges that in order for the Commission to find the project authorized by this permit fully consistent with Commission's laws and policies, including the Bay Plan Climate Change Policies then in existence, it is the Commission's and the permittee's intent that the Interim Project approved by this permit will be superseded by the long-term project, and removed from BCDC's Bay jurisdiction by 2050. To that end, this permit authorization will expire on December 31, 2049.
2. Acknowledging the complexity and uncertainty of realizing the longer term replacement of the bridge and section of the highway authorized by this permit by 2050, the permittee may request, and the Commission (or Executive Director on behalf of the Commission) may grant, extensions of this permit authorization beyond December 31, 2049, if the permittee demonstrates that: (1) it is continuing to make progress toward the Long-Term SR37 Adaptation Project to replace the bridge and section of highway authorized by this permit, (2) the delay of the Long-Term SR37 Adaptation Project beyond December 31, 2049 is for good cause, and (3) it is implementing appropriate short-term adaptation efforts to mitigate flooding impacts on the health, safety and welfare of the public.
3. Following expiration of the permit authorization, including any extensions granted pursuant to Condition II.I.2, the portion of the project within BCDC's jurisdiction that is the subject of this permit shall constitute unauthorized fill.
4. Upon cessation of use of the project that is the subject of this permit, the permittee shall immediately remove all fill in BCDC Jurisdiction associated with the project. Removal may require a separate permit application or amendment to this permit.

J. Compliance Table

The table below summarizes all reporting requirements during the life of the permit.

	Reporting Deliverable	Reporting Frequency	Due	BCDC Review period	Permit Condition
<i>Deliverables Due Immediately or Before Commencement of Authorized Work</i>					
1.	Execute Permit	One-Time	Submit within 10 days of permit issuance	N/A	IV.A
2.	Final Construction Plans	One-time	Prior to commencement of authorized work	45 days	II.A.2
3.	USFW Consultation/Approval	One-Time	Prior to commencement of authorized work	45 days	II.C.7
4.	CDFW LSAA	One-Time	Prior to commencement of authorized work	45 days	II.C.9
5.	CDFW ITP	One-Time	Prior to commencement of authorized work	45 days	II.C.9
6.	Final Restoration and Monitoring Plan	One-Time	Prior to commencement of authorized work	45 days	II.C.12
7.	Pre-Construction Survey Results	One-Time	Prior to commencement of authorized work	45 days	II.C.12
<i>Deliverables Due Upon Completion of Authorized Work</i>					
8.	Notice of Completion	One-Time	Upon completion of authorized work: within 30 days of project completion	N/A	IV.B
9.	Appropriate Professional of Record Written Certification	One-time	Upon completion of authorized work	N/A	II.A.2.b
10.	Post Construction Report with As-Builts and Photos	One-Time	Upon completion of authorized work: within 30 days of project completion	N/A	II.E
<i>Deliverables Due Only Upon Occurrence of Permit-Specified Triggering Events</i>					
11.	Modification to species protections	As needed	<i>Triggering Event:</i> Pursuit of work inconsistent with species protection conditions	45 days	II.C.1
12.	Criteria-based Time Extension Requests	As needed	<i>Triggering Event:</i> Need for time extension.	45 days	II.I.2
13.	Removal of Project-Related Fill, incl. Possible New or Amended Permit Application	One-Time	Upon cessation of use of authorized project	45 days	II.I.4
<i>Deliverables Due On Periodically-Recurring Bases</i>					
14.	Annual Monitoring Reports	Annual	January 31 for five consecutive years, unless additional reporting needed	N/A	II.C.12
15.	SR37 Long-Term Planning and SLR Updates, and follow-up Public Meeting Briefing	Once every 5 years	December 31, 2030 December 31, 2035 December 31, 2040 December 31, 2045	N/A	II.G

Deliverables Due On or By a Specific Date					
16.	Complete BCDC permit Application re Phases 2 and 3 of SR37 Sears Point to Mare Island Interim Improv. Proj.	One-Time	December 31, 2028	N/A	II.H
17.	Proof of Transfer of Funds	One-Time	On or before Dec. 31, 2028	N/A	II.B
18.	Complete BCDC permit Application re Bridge and Highway Section Replacement	One-Time	December 31, 2042	N/A	II.H

III. Findings

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

A. Project Site, Existing Conditions, and Authorized Project

SR37 is a state highway managed by the California Department of Transportation (Caltrans) that runs between Novato, in Marin County, and Vallejo, in Solano County. At the project site, SR37 runs east-west between the junction with State Route 121 at Sears Point, and Tubbs Island. This section of SR37 is a two-lane highway and is directly adjacent to tidal marsh on the south side of the road.

The project is located at the northern extent of BCDC’s Tolay Creek Certain Waterway jurisdiction, which is defined as “Tolay Creek in Sonoma County, to the northerly line of Sears Point Road (State Highway 37)” by the McAteer-Petris Act, codified in Government Code section 66610(e), and includes tidal marshes up to 5 feet above mean sea level. There is no 100-foot shoreline band at this project site, as 100-foot shoreline band is only present around Bay jurisdiction (Government Code section 66610(b).) The entire existing Tolay Creek Bridge is in the Certain Waterway jurisdiction, as is the Tolay Lagoon and the tidal marsh immediately south of the highway on Tubbs Island. Parts of the project are outside BCDC jurisdiction, including the widening north of the road, the construction of sections of the new Tolay Creek Bridge, and a temporary bridge. However, once construction is complete, BCDC Certain Waterway jurisdictional area will increase to encompass the area underneath the new, longer Tolay Creek Bridge.

Historically, the Tolay watershed area was a complex of sloughs and wetlands that since the mid-1800s have been degraded and destroyed by human development for



agriculture, salt production, and other human uses. Fill placed in the Creek and surrounding wetlands underneath the highway resulted in bottlenecking of the Creek to a single 15-foot-wide channel running under the small 40-foot-wide and 60-foot-long single-span concrete bridge, which was most recently replaced in 1972. Directly north of the bridge, the creek is a brackish marsh floodplain between banks and becomes muted tidal waters where it passes under SR37 at the Tolay Creek Bridge. South of the Bridge, the creek is tidally influenced as it runs southward through the Napa Sonoma Marsh to the mouth of the creek, where it drains directly into the San Pablo Bay.

The Interim Project Phase 1 involves widening the highway to increase the number of lanes, and the enhancement of Tolay Creek by lengthening the Tolay Creek Bridge and removing fill from the Tolay Creek channel underneath the newly lengthened bridge. The second and third phases of the Interim Project will involve widening of the remaining segments of SR37 between Tubbs Island and Vallejo, the enhancement of a tidal marsh south of SR37 ("Strip Marsh East"), and the implementation of tolls. Caltrans is expected to apply for a material amendment to this permit for the second and third phases. The total Interim Project is designed to alleviate congestion and improve habitat in the short term (20-30 years). It is not designed to increase sea level rise resiliency in the long term. The planned Long-Term SR37 Adaptation Project would adapt SR37 to rising sea levels by replacing the road and bridge with an overhead elevated causeway.

B. Bay Fill

McAteer Petris Act Section 66632(f) states that: "A permit shall be granted for a project if the commission finds and declares that the project is either (1) necessary to the health, safety or welfare of the public in the entire bay area, or (2) of such a nature that it will be consistent with the provisions of this title and with the provisions of the San Francisco Bay Plan then in effect."

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 in 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. Consistency of Authorized Fill with the McAteer-Petris Act and Bay Plan

This project involves the following fill in the certain waterways (totaling 0.86 acres of permanent new fill):

- a. the placement of 0.79 acres of permanent fill to widen the road;

- b. the replacement of the existing bridge with the new bridge, which results in a net increase of 0.07 acres of overwater fill; and
- c. the temporary placement of 0.17 acres of a sheetpile cofferdam during construction;

The proposed project will also involve the removal of fill that was placed in Tolay Creek prior to BCDC's existence, thus resulting in:

- d. 0.51 acres of new open water in certain waterways Jurisdiction; and
- e. 0.63 acres of new open waters of Tolay Creek north of the bridge, and thus outside of BCDC jurisdiction.

Therefore, the project will result in a net increase of fill in BCDC jurisdiction. The fill required for the replacement bridge qualifies as a water-oriented use, and therefore is consistent with Section 66605(a).

The Bay Plan Transportation finding E states:

"While the McAteer-Petris Act identifies bridges as water-oriented uses, roads are not water-oriented uses because roads do not need to be located in the water to function properly and do not take advantage of some unique feature of water."

Therefore, the road widening aspect of the project would not satisfy Government Code section 66605(a) of the McAteer-Petris Act, which provides that further filling of the Bay may be authorized by the Commission only if the fill is for a water-oriented uses, or minor fill for improving shoreline appearance or public access. The road widening is not minor fill, and is not intended to improve shoreline appearance or public access. However, Government Code section 66632(f) provides an alternate basis for approval that fill may be authorized if that fill is necessary for the health, safety, and welfare of the public in the entire Bay Area.

The permittee argues that the project is consistent with Government Code section 66632(f) because it is the first phase of a project that will deliver critically needed infrastructure improvements to ensure efficient traffic operations, economic development, and emergency access for residents of the North Bay. By accommodating an estimated 40,000 vehicles daily, SR37 is essential to the San Francisco Bay region—particularly to the counties of Marin, Sonoma, Napa, and Solano. SR37 is a vital commute corridor, connecting the residents of more affordable Solano County to jobs in Sonoma and Marin counties. It is the northernmost east-west freight link in the region and is an important evacuation route in the case of wildfires or a catastrophic earthquake.

The existing condition of SR37 is undersized for the volume of vehicles using the road, resulting in congestion every day where the highway narrows to one lane in each direction between Sears Point and Mare Island. On typical weekdays, the maximum westbound (WB) delay in the morning peak period is about 50 minutes, and the maximum eastbound (EB) delay in the afternoon peak period is about 68 minutes from U.S.101 to SR29. The EB SR37 bottleneck is located east of the SR 121 intersection at the lane drop just before the at-grade railroad crossing. Approximately 1,250 vehicles per hour are impacted by this bottleneck, and back-up from this bottleneck extends for about 4.7 miles. The widening of the entire stretch of road between Sears Point and Mare Island to increase lanes to match the capacity of the adjacent sections of road will eliminate the bottleneck, thereby alleviating daily congestion and helping regular SR37 commuters save up to 118 minutes each day.

The traffic during peak travel times along this section of SR37 also lengthens emergency response times. Due to the constrained roadway a single accident can wholly impede access along the road, further exacerbating travel delays and emergency access to resolve incidents.

Furthermore, this section of SR37 is an essential route for cars evacuating from natural disasters. For example, SR37 is designated as the evacuation route for the Black Point community of approximately 1,619 residents in Novato to evacuate in an emergency such as a wildfire. SR 37 is also the designated evacuation route in any emergencies that render the Richmond-San Rafael Bridge inoperable. The only other parallel East-West connection in the San Pablo Bay area would be SR 116/SR 12, which are both rural highways with limited capacity: only one lane in each direction for the majority of the segment between US101 and SR121. Therefore, widening SR37 to two lanes in each direction to increase the capacity and speed for evacuation and enhance emergency vehicles' accessibility would improve public safety in the region.

Improving SR37's capacity and operations will also improve economic welfare of the region. The overall Interim Project is anticipated to save 9.6 million hours in traffic each year and result in a value of \$79 million in annual travel time savings with \$1.5 billion in lifecycle benefit to the Bay Area. The benefits analysis is consistent with Caltrans' California Life-Cycle Benefit Cost Analysis: the value of time is estimated at \$16.45 per hour (in 2022 dollars) for auto users, which represents 50% of the statewide average hourly wage. Value of time is higher for truck users, estimated at \$37.55 per hour. Travel time savings accounted for most of the overall benefits. Other benefits also include improvements in safety, reduction in greenhouse gas emissions, and vehicle operating costs.

Although these travel and economic benefits will not be fully realized until all phases of the overall project are permitted and completed, the Interim Project Phase 1 to improve the SR 37/121 intersection and replace and upgrade the Tolay Creek Bridge is a critical first step to capture and retain available funding for the complete project and achieve the anticipated outcomes outlined above.

For all the reasons above, the Commission finds this project is necessary for the health, safety and welfare of North Bay residents specifically and, by extension, the entire Bay Region.

Additionally, the permittee argues that the project is largely in compliance with the requirements of Section 66605 for the following reasons:

- a. **No upland alternative is available.** The permittee considered multiple alternative routes for vehicles travelling along SR37 along existing or new roads. The alternatives analysis found that rerouting traffic to other roads would (1) result in major detours that would increase travel times for vulnerable communities in Solano County, (2) increase congestion on those roads, (3) require significant construction costs, and (4) result in significant environmental impacts. Therefore, these alternatives were found to be infeasible or would not satisfy the purpose of the project.
- b. **Minimum fill necessary.** Assuming the road must be widened on this alignment and not wholly replaced with a causeway, the project has been designed to minimize fill in BCDC jurisdiction by increasing the length of the Tolay Creek Bridge from 60 ft to 375 ft, removing fill from Tolay Lagoon, and designing the road with retaining walls instead of typical 4:1 sloped embankments which would result in additional fill due to their larger horizontal footprint.
- c. **Harmful effects to the Bay are minimized.** The project would remove tidal marsh habitat bordering the south of SR37 but would greatly improve habitats of Tolay Creek and Tolay Lagoon in BCDC jurisdiction and along the Tolay Creek watershed north of BCDC jurisdiction by removing fill and tidal flow restrictions on the Creek. (See further discussion below in Section III.D.)
- d. **Sound safety standards.** As discussed in the next section (Section III.B.2), the project adheres to sound safety standards to protect public health, safety, and welfare. Retaining walls, sheet-pile walls, and embankments ensure the structural stability of the roadway. Additionally, the applicants presented the project to the Engineering Criteria Review Board (ECRB) for review at two meetings in 2025, and the ECRB found the project conformed to the Caltrans guidance for embankments and met safety criteria.

- e. **Permanent shoreline.** This is an interim project that is planned to be replaced by a long-term causeway elevated above the marsh, thus addressing rising sea levels at that time.
 - f. **Valid Title.** The applicant has submitted documents demonstrating that the portion of the project in BCDC jurisdiction is entirely within Caltrans' right-of-way.
2. **Other Project Benefits**

The Interim Project will result in other benefits to the region that are not strictly necessary for the health, safety, and welfare of the public in the entire Bay Area, as discussed in the previous section.

First, reducing heavy congestion would reduce traffic idling time and stop-and-go traffic that results in unnecessary greenhouse gas emissions and allow the introduction of public transit options on SR37, which is currently not available as it is not viable due to unreliable travel times. The Interim Project (including future phases) does not directly result in the introduction of public transit on the road, but by decreasing traffic and designating HOV/transit lanes¹, would create the opportunity for public transit options.

Finally, the proposed project would provide ecological benefits by incorporating time-sensitive and critical ecological natural resource creation and enhancements through the replacement of Tolay Creek Bridge. This bridge replacement would enhance tidal connectivity, create new waters, improve habitat for threatened and endangered species, and contribute to long-term watershed restoration. Further ecological enhancement planned for the upcoming project phases include the enhancement of Strip Marsh East, which is anticipated to re-establish 600 acres of lost tidal marsh and improve ecological and regional resiliency to rising sea levels.

3. Safety of Fills

The Bay Plan Safety of Fills Policies state, in part:

- “The 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: (a) establish and revise safety criteria for Bay fills and structures thereon; (b) review all except minor projects for the adequacy of their specific safety provisions, and make recommendations concerning these provisions; (c)

¹ as proposed in the State Route 37 Sears Point to Mare Island Improvement Project State Route 37 from State Route 121 to Mare Island Napa, Sonoma, and Solano Counties, California Environmental Impact Report/Environmental Assessment

prescribe an inspection system to assure placement and maintenance of fill according to approved designs” (Policy No. 1).

- “Even if the Bay Plan indicates that a fill may be permissible, no fill or building should be constructed if hazards cannot be overcome adequately for the intended use in accordance with the criteria prescribed by the Engineering Criteria Review Board” (Policy No. 2).

This project involves the construction of a public highway bridge and widening of SR37 into marshlands. As such, this project is subject to the Bay Plan Safety of Fills Policies, and ECRB review is appropriate.

Caltrans first presented the Tolay Creek Bridge project to ECRB on May 21, 2025. The ECRB had questions concerning (among other items) soil sampling and soil characteristics, liquefaction potential, seismic loadings from fault rupture and ground motion, criteria for pile and super-structure design, hydraulic loading and flood potentials. The ECRB members were satisfied with many of the responses to their questions but had outstanding questions and concerns, which required additional information submissions and another ECRB meeting. At the September 24, 2025, ECRB meeting, Caltrans gave a presentation addressing the required questions that were outstanding from the May 21 meeting. Most of the ECRB’s concerns were addressed, but some questions were not addressed to the satisfaction of the ECRB, and a subcommittee of two ECRB members was formed to expedite the remaining ECRB review and enable Caltrans to finalize the remaining issues without convening a third ECRB meeting. On February 3, 2026, the subcommittee concluded that all the information provided by Caltrans had adequately addressed the ECRB concerns.

C. Public Access

Section 66602 of the McAteer-Petris Act states, in part, that “maximum feasible public access, consistent with a proposed project, should be provided.”

Bay Plan policies on Public Access state, in part, that:

- “[a] proposed fill project should increase public access to the Bay to the maximum extent feasible” (Policy No. 1).
- “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 whether it be for housing, industry, port, airport, public facility, wildlife area, or other use, except in cases where public access would be clearly inconsistent with the project because of public safety considerations or significant use conflicts, including unavoidable, significant adverse effects on Bay natural resources. In these

cases, in lieu access at another location preferably near the project should be provided.” (Policy No. 2).

Bay Plan policies on Transportation state, in part, that:

- “[t]ransportation projects on the Bay shoreline and bridges over the Bay or certain waterways should include pedestrian and bicycle paths that will either be a part of the Bay Trail or connect the Bay Trail with other regional and community trails. Transportation projects should be designed to maintain and enhance visual and physical access to the Bay and along the Bay shoreline.”

Public Access Provided by the Project

Public access on the interim bridge and road (such as a bike or pedestrian path) was not desirable because the road and bridge would be removed when the planned long-term solution causeway is completed by 2050. Additionally, public access improvements on the road and bridge would greatly increase Bay fill and corresponding adverse environmental impacts. Therefore, the permittee is instead required to contribute in-lieu public access by conveying a total of \$693,160 to the City of Vallejo to enhance an existing section of Bay Trail at the River Park. River Park and the Bay Trail path are currently required public access of the Greater Vallejo Recreation District (permit M1983.002.00), and this in-lieu fee will be used to resurface the trail, install signage, manage invasive plants, install native plants, and for other various park improvements. Once the funds are conveyed, the City of Vallejo will be responsible for implementing and maintaining the project.

Cyclists currently use the highway shoulders, and the widened highway will feature 8-foot shoulders in each direction.

Therefore, the project is consistent with the Bay Plan Public Access Policies.

D. Effects on Bay Resources

Section 66605(d) of the McAteer-Petris Act states, in part, “That the nature, location, and extent of any fill should be such that it will minimize harmful effects to the bay area, such as, the reduction or impairment of the volume surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources, or other conditions impacting the environment, as defined in Section 21060.5 of the Public Resources Code.”

Relevant Bay Plan Policies

Bay Plan Subtidal Areas policies state, in part:

- “Any proposed filling or dredging project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment

movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects" (Policy No. 1).

- "Subtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife (e.g., eelgrass beds, sandy deep water or underwater pinnacles) should be conserved. Filling, changes in use, and dredging projects in these areas should therefore be allowed only if: (a) there is no feasible alternative; and (b) the project provides substantial public benefits" (Policy No. 2).

Bay Plan Fish, Other Aquatic Organisms and Wildlife policies state, in part:

- "To assure the benefits of fish, other aquatic organisms and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased" (Policy No. 1).
- "The Commission should: (a) Consult with the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, whenever a proposed project may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species; (b) Not authorize projects that would result in the "taking" of any plant, fish, other aquatic organism or wildlife species listed as endangered or threatened pursuant to the state or federal Endangered Species Acts, or the federal Marine Mammal Protection Act, or species that are candidates for listing under these acts, unless the project applicant has obtained the appropriate "take" authorization from the U.S. Fish and Wildlife Service, National Marine Fisheries Service or the California Department of Fish and Wildlife; and (c) Give appropriate consideration to the recommendations of the California Department of Fish and Wildlife, the National Marine Fisheries Service or the U.S. Fish and Wildlife Service in order to avoid possible adverse effects of a proposed project on fish, other aquatic organisms and wildlife habitat" (Policy No. 4).

Bay Plan Mitigation Policies state, in part:

- "Projects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required. Mitigation is not a substitute for meeting the other requirements of the McAteer-Petris Act" (Policy No. 1).

The project would have both adverse and beneficial impacts on subtidal habitats, tidal marshes, and native organisms living near the project site. Notable species that may be impacted by the project include: California red legged frog, California black rail, California Ridgeway's rail, salt marsh common yellowthroat, San Pablo song sparrow, western burrowing owl, white-tailed kite, Chinook salmon, steelhead, delta smelt, longfin smelt, green sturgeon, Sacramento splittail, salt marsh harvest mouse, Suisun shrew, pallid bat, northwestern pond turtle, saline clover, San Joaquin spearscale, and soft bird's beak.

Adverse impacts of the project include the road widening that will permanently remove 0.79 acres of tidal marsh fringing the road (average of 12 feet width). Additionally, the construction of the project will result in significant temporary construction impacts, including the dewatering of 1.56 acres of open water (for up to 6 months per year during construction) and tidal marsh (up to 24 consecutive months) for impact pile driving (only in dewatered areas). Environmentally beneficial impacts of the project on include removal of fill from Tolay Creek, creating open water (0.51 acres in BCDC jurisdiction and 0.63 acres outside of BCDC jurisdiction), reconnecting tidal flow through the Creek, improving water quality within the Creek and allowing for the restoration of habitats upstream of the bridge.

Though some of the fill removal will be outside of BCDC jurisdiction, that removal will benefit the Bay overall, and the restored tidal flows will greatly improve habitat conditions for native bay species and allow for the future Sonoma Creek Baylands Restoration Project, which is planned to restore tidal action to approximately 6,000 acres of diked baylands along the lower reaches of Tolay and Sonoma Creeks. Therefore, the removal of 1.14 acres of fill in Tolay Creek and Tolay Lagoon to create open-water habitat sufficiently compensates for the loss of 0.79 acres of tidal marsh.

Special Conditions are included to ensure adverse environmental impacts of construction are avoided and minimized. For instance, Special Condition II.C.2 specifies the construction work window allowed for placement of the dewatering systems, which are used to avoid in-water construction. Special Condition II.C.11 requires the permittee to implement the Avoidance and Minimization Measures submitted by the permittee with the application (Exhibit A). Special Condition II.C.12 requires the permittee to restore all temporarily disturbed tidal marsh areas within 5 years of project completion.

Typically, a construction project like this would be limited to work windows that would avoid take to fully protected species. However, on October 7, 2025, Governor Gavin Newsom signed Assembly Bill 697 "Protected species: authorized take: State Route 37 project," which allowed Caltrans to secure incidental take permits (ITP) for the salt marsh harvest mouse, the California Ridgeway's rail, the California black rail and the white-tailed kite from CDFW specifically in relation to this project.

Typically, when a project requires consultation and permits from CDFW (ITP and Lake and Streambed Alteration Agreement) and USFWS (Biological Opinion), those documents are required prior to filing the BCDC permit application as complete. However, in this case, Caltrans requested BCDC waive these application requirements because late changes to the project required BCDC, CDFW and USFWS to concurrently issue approvals and consultation letters to meet Caltrans funding deadlines. As these other two agencies were analyzing the environmental impacts of the project simultaneously with BCDC's permit process, BCDC could not consult with the other agencies prior to mailing of the staff recommendation. This usual consultation is essential to BCDC's analysis of a project's consistency with the McAteer-Petris Act and the Bay Plan policies regarding the protection of species and design of appropriate special conditions to avoid and minimize environmental impacts. These recommendations are particularly useful to BCDC when analyzing the unavoidable temporary impacts of a project on species and finding appropriate minimization measures and compensatory mitigation for those impacts. However, BCDC staff have informally consulted with staff at these agencies, and are assured that the other agencies will ultimately require appropriate compensatory mitigation for temporary construction impacts and take consistent with BCDC mitigation policies. Therefore, the Executive Director determined that the informal consultations with the agencies was sufficient to waive these approvals as permit application filing requirements, and Special Conditions II.C.7-9 require the permittee to submit the aforementioned documents to BCDC prior to commencing construction.

E. Environmental Justice and Social Equity

Bay Plan policies on Environmental Justice and Social Equity state, in part:

- “Equitable, culturally-relevant community outreach and engagement should be conducted by local governments and project applicants to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in underrepresented and/or identified vulnerable and/or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action” (Policy No. 3).
- “If a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to

require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed” (Policy No. 4).

The project site is located in two census blocks. The most western section of the project, including the bridge, is located in Block Group 3, Census Tract 1506.12, Sonoma County, California, and the eastern portion of the project is in Block Group 3, Census Tract 1501, Sonoma County, California, with the following vulnerability indicators:

Block	Type	Overall vulnerability	70 th percentile indicators	90 th percentile indicators
1506.12	Social	Moderate	Under 5, Single Parent, Over 65 Alone, Very Low Income	None
1506.12	Contaminant	Moderate	Hazardous Waste	Groundwater Threats, Impaired Water Bodies, Solid Waste Sites
1501	Social	Low	Over 65 Alone	None
1501	Contaminant	Lower	Groundwater Threats, Solid Waste Sites	None

Over the project life, the project will generally have a positive effect on the local communities and nearby communities that use SR37, as it will lessen traffic, reduce emissions, improve emergency response times, improve bay and wetland environments, and provide funding for public access improvements in Vallejo. During planning of the project, the permittee engaged in discussions with elected officials, the Solano Transportation Authority’s Equity Working Group, the Federated Indians of Graton Rancheria (FIGR), the Yocha Dehe Wintun Nation, and public hearing community participants. Specifically, in 2017, Caltrans, the Metropolitan Transportation Commission (MTC), the Transportation Authority of Marin (TAM), the Sonoma County Transportation Authority (SCTA), the Napa County Transportation Authority (NCTA) and the Solano Transportation Authority (STA) conducted a series of 4 open houses to inform the public about the State Route 37 Improvement Plan. These included:

- September 20, 2017, meeting in Novato, with 26 attendees



- September 27, 2017, meeting in American Canyon, with 20 attendees
- September 29, 2017, meeting in Sonoma, with 29 attendees
- October 2, 2017, meeting in Vallejo with 72 attendees

Key feedback included the urgent need for congestion relief (lane additions, transit, SMART train extension, bike/pedestrian access) and concerns about tolling and privatization. This feedback helped inform project design, including intersection improvements and multimodal options. Tolling is not proposed to be implemented until a later phase of the project, which will require additional BCDC permitting.

Opportunity for public participation via the standard CEQA environmental review process was also conducted, including an online public meeting on February 2, 2022, and public comment periods on the draft EIR/EA in 2022 and the supplemental EIR in 2024-2025. Feedback raised in this process included concerns about environmental impacts, tolling equity, maintaining and enhancing public access, and support for the Tolay Creek Bridge replacement and the long-term project.

Two environmental working group meetings were held in 2024 and 2025, with a total of approximately 52 participants. Feedback from these meetings emphasized congestion relief, transit options, and toll programs for vulnerable populations.

The project team participates in the Resilient SR 37 Policy Committee, which holds quarterly meetings (started in 2019 and will continue until 2026) with local elected officials and the public, focusing on corridor resiliency, the SR 37/121 interchange, and Tolay Creek Bridge replacement for ecological restoration.

The project has included specific minimization measures in coordination with tribal groups, including FIGR and the Yocha Dehe Wintun Nation, to meet their requests for greater engagement, and active coordination throughout project design and construction. These measures address development of a tribal monitoring plan, cultural sensitivity/awareness training, establishing tribal monitoring areas, developing a cultural landscape study, coordination on planting palette and landscaping, and tribal review of project changes.

Therefore, the project is consistent with the Bay Plan Environmental Justice Policies.

F. Flooding and Sea Level Rise

The Bay Plan Climate Change policies state, in part:

- “To protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects—other than repairs of existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within

existing urbanized areas—should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century” (Policy No. 3).

- “New projects on fill or near the shoreline should either be set back from the edge of the shore [and] 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” (Policy No. 4).

Additionally, Bay Plan Climate Change Finding f states:

- “Natural systems and human communities are considered to be resilient when they can absorb and rebound from the impacts of weather extremes or climate change and continue functioning without substantial outside assistance.”

The authorization for the interim project will expire in 2050, so the requirement for an adaptive management plan per Climate Change Policy No. 3 is not triggered by this project. The EIR published in 2022 analyzed sea level rise under the OPC projected SLR levels with a 0.5 percent likelihood conditions to the year 2050 (i.e., 1.9 feet of SLR) on top of the 1-, 10-, 50-, and 100-year storm events, based on pre-project conditions, and found likely annual flooding of the road with 1.9 feet of SLR. The elevations of the proposed roadway and Tolay Creek Bridge range approximately from 9.1 ft to 18.7 ft (NAVD 88). As this project is intended as an interim measure to improve habitat conditions and traffic until a long-term project to replace the road is implemented, the road is not being raised, except in certain low-lying sections, such as the eastern approach to the Bridge. Caltrans investigated the possibility of raising the entire bridge to an elevation that would be resilient to end-of-century sea level rise projects, but that was found to be geometrically impossible without also raising nearby train tracks that cross SR37 directly adjacent to Tolay Creek.

While this project only raises elevations of the road and bridge slightly in some locations, the road will remain resilient to sea level rise by mid-century, as flood events are not expected to cause damage to the road or bridge. To ensure that the road is replaced by a new facility adapted to future sea level rise, Special Conditions II.G-1 require the permittee present Sea Level Rise Adaptation Planning Updates to the Commission every 5 years between 2030 and 2045, submit complete applications for the remaining phases of the Interim Project and the Long Term Project within reasonable time frames to allow for construction of phases 2 and 3 of the Interim Project on the same time frame as Phase 1 and the construction of the Long Term

Project by 2050, and remove the Interim Project components once the Long Term Project is completed.

Therefore, the project is consistent with Bay Plan Climate Change Policies.

G. **Public Trust Uses**

The activities authorized herein are located primarily within the tidal waters, which are subject to the public trust. Although fill for a road expansion may not constitute a public trust-consistent use, as previously mentioned, the project authorized herein is intended to only be interim in nature. By 2050, the widened road and temporary bridge are proposed to be replaced by an elevated causeway. The public trust consistency of that project will be evaluated at the future point that a BCDC permit is needed, and this interim project can be found consistent with the public trust needs for the area per Bay Plan Public Trust Policy 1.

H. **Coastal Zone Management Act**

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

I. **Environmental Review**

Pursuant to the California Environmental Quality Act (CEQA), the Final Environmental Impact Report/Environmental Assessment with Finding of No Significant Impact for the SR37/SR121 interchange and road widening was approved by Caltrans on February 8, 2023. In June 2024, Caltrans prepared a CEQA Addendum/NEPA Re-evaluation to the original EIR/EA/FONSI to include the replacement of the Tolay Creek Bridge in the Project description, which was approved on July 16, 2025.

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 permittee(s) transfer any interest in any property either on which

the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittee(s)/transferors and the transferees shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and understand the 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 permittee(s) of any obligations imposed by State or Federal law, either statutory or otherwise.
- F. **Built Project must be Consistent with Application.** Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the 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 permittee(s) 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 permittee(s) 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 permittee(s) 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 permittee(s) shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.
- M. **Abandonment.** If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee(s), its assignees or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.
- N. **Best Management Practices**
 - 1. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee, its assigns, 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 permittee(s) shall contact Commission staff to confirm current restricted periods for construction.