

## RESOLUTION NO.

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLINGAME APPROVING AN APPLICATION FOR COMMERCIAL DESIGN REVIEW, SPECIAL PERMITS FOR HEIGHT AND DEVELOPMENT UNDER TIER 3/COMMUNITY BENEFITS, AND VESTING TENTATIVE MAP FOR A NEW DEVELOPMENT PROJECT, CONSISTING OF THREE 11-STORY OFFICE/RESEARCH AND DEVELOPMENT BUILDINGS AND TWO 10- AND 10.5-STORY PARKING STRUCTURES AT 1200-1340 OLD BAYSHORE HIGHWAY, BURLINGAME CA**

THE CITY COUNCIL OF THE CITY OF BURLINGAME hereby finds as follows:

WHEREAS, on March 24, 2022, DW Burlingame I Owner LLC, DW Burlingame II Owner LLC, DW Burlingame II Owner A LLC, DW Burlingame II Owner B LLC, and DW Burlingame III Owner LLC (“Developer”) filed an application with the City of Burlingame Community Development Department – Planning Division requesting approval of the following requests:

- Environmental Review pursuant to the California Environmental Quality Act (“CEQA”);
- Vesting Tentative Map (Burlingame Municipal Code [“BMC”] Chapter 26.08);
- Commercial Design Review (BMC Sections 25.12.060 and 25.68.020(C)(3)(a));
- Special Permit for building height greater than 65 feet (214’-6” maximum proposed) (BMC Sections 25.12.030, Table 25.12-2 and 25.78.060(A)(2));
- Special Permit for Community Benefits for increased Floor Area Ratio for a Tier 3 project (2.71 FAR proposed) (BMC Sections 25.12.030, Table 25.12-2, 25.12.040, and 25.78.070(A)); and
- Development Agreement (BMC Chapter 25.104) (collectively, the “Project”); and

WHEREAS, on March 11, 2024, the Planning Commission considered and, on a 6-0 vote (with one commissioner absent) recommended certification of a Final Environmental Impact Report prepared for the Project (“FEIR”) which was prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) and the CEQA Guidelines, and adoption of a Water Supply Assessment for the Project; and

WHEREAS, also at its March 11, 2024 meeting, the Planning Commission conducted a duly noticed public hearing and voted 5-1 (with one commissioner absent) to recommend approval of the Developer’s requests for Commercial Design Review, Special Permits, Vesting Tentative Map, and Development Agreement; and

WHEREAS, on April 1, 2024, the City Council conducted a duly noticed public hearing to consider all Project entitlements, at which time it reviewed and considered the staff report and all other written materials and oral testimony presented at said hearing and the Planning Commission’s recommendations; and

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WHEREAS, as a result of the oral and written testimony presented at the April 1, 2024 public hearing, as well as the analysis in the staff report and the entire record for the Project, the City Council hereby approves the Project applications for Commercial Design Review, Special Permits, and the Vesting Tentative Map based on the following findings relative to each aspect of the Project:

### Design Review Findings:

1. That the proposed Office/R&D project is consistent with the General Plan designation of Bayfront Commercial and is in compliance with all applicable provisions of Title 25 of the Burlingame Municipal Code, and that the Project includes adequate features addressing the Major Design Review Criteria for commercial, industrial, and mixed-use zoning districts stated in BMC Section 25.68.060(E). The proposed Project design specifically meets the Design Review Criteria in the following ways:
  - That the proposed Project supports the pattern of diverse architectural styles that characterize the City's Bayfront Commercial area with the use of a variety of materials to express a modern style. The exterior finishes include a mix of materials including vision glass, shadow box, fritted glass curtainwall, perforated metal, light metal, textured concrete, cementitious panels, glass with graphic interlayer, and warm metal with varying colors to provide visual interest and articulation; these materials will blend with the existing office and hotel buildings in the area and will also be compatible with the newer buildings in the surrounding area;
  - That the design respects and promotes pedestrian activity by providing a missing link of the Bay Trail as well as various public plazas and amenities to enliven the Bayfront area, including Bay overlooks with seating on either side of Easton Creek, a public plaza at the southern end of the site, a picnic plaza and event lawn at the northern building's Bay Trail frontage, a shoreline exploration area, nature discovery playground, outdoor fitness area, drinking fountains and a public restroom. The Project will also provide pedestrian trails along Easton Creek and new sidewalks along Old Bayshore Highway. Off-street parking will be located in two parking structures with no proposed surface parking to use the site's space efficiently and to allow for increased landscaping and open space;
  - That the proposed Project is compatible with surrounding development in that the site is located on the central portion of the Bayfront adjacent to a mix of hotels, office buildings, the San Francisco Bay, and Easton Creek. The building heights in the immediate area include an adjacent 9-story office building and a 10-story hotel in addition to other existing low-rise commercial developments. While the proposed Project will consist of three 11-story Office/R&D buildings and two 10- and 10.5-story parking structures, it is adjacent to existing development of similar scale and will fit into the mixed fabric along Old Bayshore Highway. Therefore, it will be compatible with the mass and bulk of buildings in the area and will be consistent with the overall

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heights established in the General Plan and the Zoning Code via a Special Permit application;

- That the proposed Project uses a single architectural style, using consistent materials, architectural details, and massing techniques among the Project's three Life Science/ Office buildings as well as the two parking structures; and
  - That the proposed on-site landscaping, including the planting of 195 new trees on-site, will enhance this site that fronts on San Francisco Bay, Old Bayshore Highway, and Airport Boulevard. That the proposed Project will significantly improve the pedestrian and cyclist experience along the Bay Trail by providing a missing link of the trail, substantial new amenities, public plazas, and open spaces along the Bay Trail that will be accessible to the public, and that the Project will enhance shoreline resilience to and protection from sea-level rise.
2. That as shown on the development table and on the proposed plans, the Project will be constructed on a parcel that is adequate in shape, size, and topography to accommodate the proposed development; and
  3. That the Project is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring property in that the proposed Project will encourage pedestrian activity through improvements to the sidewalk and streetscape on Old Bayshore Highway, multiple public plazas and amenities, and a new Bay Trail segment. Pedestrian paths will provide continuous access through the center of the site connecting Old Bayshore Highway to the Bay Trail and there would be direct access from Airport Boulevard to the southern plaza and then on to the Bay Trail.

### Special Permit Findings (Building Height):

- That while the proposed three, 11-story Office/R&D buildings and the two 10- and 10.5-story parking garages exceed the base 65-foot height limit, the proposed Project has been designed to respect and preserve the character of the Bayfront neighborhood in that the Project site is located immediately adjacent to an existing 9-story office building. While the new buildings at 11-stories will be a change to existing surface parking and low-rise development on this site, the Project has been designed to increase view corridors over existing conditions, with the broad faces of the buildings oriented perpendicular to Old Bayshore Highway and the shorter faces facing the public street. While the Project buildings are somewhat taller than some nearby structures, the massing and scale is broken down to be similar to the frontage widths of surrounding buildings. Vertically, buildings are subdivided into several distinct massing "segments" with architectural reveals, plane changes, and balconies separating one massing segment from the next; and

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- That the proposed Project will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience, since it is well articulated and includes high quality materials and will be compatible with buildings in the area that range in from two to 10 stories in height; the proposed modification will allow additional height and result in a higher intensity office/research and development use that will allow the development to occur on smaller footprints, which opens space for the creation of larger public amenities around the site with the public plazas, public paths and publicly accessible spaces including the redeveloped Bay Trail, two bay overlooks and an outdoor fitness area. The additional height will be consistent with character envisioned for the Bayfront district and that the proposed height of the buildings are consistent with the following goals and policies of the Burlingame General Plan:

**Goal CC-6:** Establish a cohesive design character for the Bayfront area that protects views to the waterfront, encourages biking and walking, accommodates water-based recreation and ferry service, and addresses sea level rise.

**Policy CC-6.1: View Preservation.** Ensure that new development preserves public views to the waterfront. Consider sightlines and viewsheds from Bayfront open spaces when planning future projects.

**Policy ED-1.1: Diverse Building Types and Sizes.** Encourage development of new office, research, and technology spaces to diversify the types of businesses in Burlingame, focusing specifically on the Rollins Road, Bayfront, and downtown areas.

### Special Permit Findings (Increased Floor Area Ratio with Approval of Community Benefits):

- That the proposed modification to standards respects and preserves the character of the neighborhood in which the Project is located because the increased floor area ratio (FAR) is appropriately sited with frontage on Old Bayshore Highway and the increased density will integrate with the development encouraged in the BFC zoning district. Further, the Project creates a reinvigorated commercial district that facilitates a design that accommodates greater open space and public improvements on-site and the proposed FAR is appropriate for this site given the site width and depth. The community benefits proposed improve the pedestrian and cyclist experience along Old Bayshore Highway and along the Bay Trail, provide substantial new amenities along the Bay Trail that will be accessible to the public, promote accessibility to the Bay Trail, and enhance shoreline resilience to and protection from sea-level rise and therefore respect and preserve the character of the neighborhood in which the Project is located;
- That the proposed Project will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience because the 2.71 FAR project has been designed with adequate setbacks to neighboring properties to provide a buffer and is not anticipated to have any significant

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adverse impact on the environment including on surrounding properties, sanitation, air quality, sewer or stormwater discharge, or water supply, and all public safety requirements will be addressed. The proposed development has been designed with landscape buffers and pedestrian amenities that complement the building design; and

- That the proposed height of the buildings and the additional development capacity, with a Tier 3 development at 2.71 FAR, aligns with the following goals and policies in the General Plan:

**Goal CC-5:** Maintain and promote the Bayfront area as a premier destination along San Francisco Bay for land- and water-based recreation, hospitality uses, creative industries, logistics support, water-based transit service, and local businesses that benefit from proximity to San Francisco International Airport.

**Policy CC-5.1: Commercial Destinations.** Support and encourage commercial uses along the waterfront that enliven the area and serve as destinations for residents and visitors, including hotels, restaurants, and entertainment venues.

**Policy CC-6.3: Infill Development.** Encourage increased intensity through high-quality infill development on surface parking lots and support the conversion of surface parking lots into active commercial and hospitality uses.

**Policy CC-6.4: Design Character.** Establish design standards that facilitate attractive interfaces between use types, enhance the public realm, and activate commercial districts. Prioritize pedestrian improvements and waterfront access.

### Vesting Tentative Map Findings:

- That the proposed vesting tentative map, together with the provisions for its design and improvement, is consistent with the Burlingame General Plan and consistent with the provisions of the Subdivision Map Act, and that the site is physically suited for the proposed type and density of development in that it provides a commercial development in an area identified as suitable for such use in the Zoning Code and General Plan, provides vehicular and pedestrian circulation to serve the Project, and is consistent with required development standards.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGAME that the applications for Commercial Design Review, Special Permits for Height and Development under Tier 3/Community Benefits, and Vesting Tentative Map are hereby granted, subject to the following conditions of approval:

### Conditions of Approval:

1. that the Project shall be built as shown on the plans submitted to the Planning Division

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date stamped September 25, 2023 sheets ENT G-000-ENT G-400, sheets ENT AS-101-ENT AS-331, sheets ENT C-001- ENT C-903, sheets ENT INT-1 - ENT INT-4, sheets ENT L-001 – ENT L-502, sheets ENT SS-001 –ENT SS-010, sheets ENT LT-101 - ENT LT-104, sheets ENT A.BS-000 - ENT A.BS-332, sheets ENT A.BC-000 - ENT A.BC-332, sheets ENT A.BN-000 - ENT A.BN-332, sheets ENT A.PS-000 - ENT A.PS-331, and sheets ENT A.PN-000 - ENT A.PN-331;

2. that the Project shall comply with all terms of the Development Agreement, as approved by Ordinance No. \_\_\_\_ (“Development Agreement”). In the event of a conflict between the Development Agreement and these conditions of approval, the Development Agreement shall control;
3. For purposes of these conditions of approval, the capitalized terms “Phase” and “Building” shall have the same meaning as they do in the Development Agreement;
4. that prior to issuance of a building permit for construction of the Project, the Project construction plans shall be modified to include a cover sheet listing all conditions of approval recommended by the Planning Commission and adopted by the City Council; which shall remain a part of all sets of approved plans throughout the construction process. Compliance with all conditions of approval is required; the conditions of approval shall not be modified or changed without the approval of the City Council, unless otherwise provided pursuant to Section 8.7 of the Development Agreement;
5. that any changes to the size or envelope of building, which would include changing or adding exterior walls or parapet walls, or changes to building materials, exterior finishes, windows, architectural features, roof height, and amount or type of hardscape materials shall be subject to Planning Division, Planning Commission, or City Council review (provided that such review shall be consistent with the provisions of Article 8 of the Development Agreement);
6. that construction shall not include impact pile driving or blasting activities. Construction equipment shall be consistent with the equipment evaluated in Section 4.11 of the Project’s Environmental Impact Report. Sheet piles shall be installed using a drilled, cast-in-place method, such as auger-cast or torquedown piles, or a vibratory hammer suspended from a crane for sheet piles comprising portions of the proposed sea wall;
7. that the Project shall pay all fees as required by the Development Agreement;
8. that the Project design measures outlined in the Water Supply Assessment, dated September 2023, prepared by EKI Environment & Water Inc., shall be included on the plans submitted to the Building Division; including installing purple piping along the frontage of the Project for the onsite irrigation system to allow for future recycled water usage; implementing the Prescriptive Compliance Option of the Model Water Efficient Landscaping Ordinance (MWELO - see California Code of Regulations Title 23, Chapter

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- 2.7, Appendix D); installing 100% WaterSense labeled products, as available; and incorporate a minimum of four points under the Water Efficiency credit category under Leadership in Energy and Environmental Design (LEED) certification;
9. that the Project shall include the Transportation Demand Management (TDM) Measures as proposed in the Transportation Demand Management Plan, prepared by Fehr & Peers, dated August 2022;
  10. that a TDM annual report shall be prepared by a qualified professional and submitted to the City of Burlingame annually; with the initial, or baseline, commute survey report to be conducted and submitted one (1) year after the granting of a certificate of occupancy for 75 percent or more of the Project and annually after that;
  11. that the TDM annual report shall provide information about the level of alternative mode-uses and in the event a 20 percent reduction in trip generation compared to the standard rate estimated by the Institute of Transportation Engineers (ITE) Trip Generation Manual (10<sup>th</sup> Edition) is not achieved, the report shall explain how and why the goal has not been reached; in such a circumstance the annual report shall identify a work plan, to be approved by the City of Burlingame, which describes additional or alternative measures for implementation that would be necessary to enhance the TDM program to attain the TDM goal of 20 percent reduction in trip generation;
  12. that the City may consider whether the employer/tenant has made a good faith effort to meet the TDM goals and may allow the owner a six-month “grace period” to implement additional TDM measures to achieve the 20 percent vehicle trip reduction;
  13. that prior to the issuance of a certificate of occupancy, a covenant agreement shall be recorded with the San Mateo County Assessor and Recorder’s Office to provide constructive notice to all future owners of the property of any ongoing programmatic requirements that discloses the required TDM provisions, and any conditions of approval related herein to compliance and reporting for the TDM;
  14. that if the Project will utilize shuttles under the jurisdiction of the Peninsula Traffic Congestion Relief Alliance (Commute.org), the employer/tenant shall coordinate with Alliance staff;
  15. that prior to issuance of a building permit for vertical construction, the applicant shall verify that the October 3, 2023 FAA Determination of No Hazard to Air Navigation for the is still current and has not expired (April 3, 2025) and if expired, a new FAA Determination of No Hazard to Air Navigation shall be submitted to the City of Burlingame prior to building permit issuance for vertical construction;
  16. that prior to demolition or grading permit issuance, the applicant shall provide evidence of approval of demolition or grading from the Bay Conservation and Development

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Commission (BCDC); the applicant may apply for an at-risk demolition or at-risk grading permit for the demolition and removal of the existing structures and grading or earth moving on the site prior to providing evidence of approval from the Bay Conservation and Development Commission (BCDC);

17. that prior to building permit issuance, the applicant shall provide evidence of approval for all Bay Trail improvements from the BCDC;
18. that the applicant shall receive and provide evidence of approval from Caltrans for improvements proposed to the intersection at the US-101 Offramp and Old Bayshore Highway prior to building permit issuance;
19. that the applicant, in consultation with a qualified wind consultant, shall develop and incorporate into the Project design wind-reduction features at Locations B and C (indicated Figure 4.1-16 in the EIR) to reduce the speed of, and potentially avoid, uncomfortable and potentially unsafe wind speeds. Wind reduction features may include installation of some combination of canopies and/or trellises on the buildings to deflect downwashing winds, and/or vertical wind screens to shield pedestrians from uncomfortable and potentially hazardous winds;
20. that a Protected Tree Removal Permit shall be required from the City of Burlingame Parks Division to remove any existing protected size trees on the subject property and that the Project shall comply with the Tree Protection and Reforestation Ordinance as adopted by the City of Burlingame and enforced by the Parks Division; complete landscape and irrigation plans shall be submitted at the time of building permit application for vertical construction;
21. that street trees shall be planted as shown in Exhibit A to the entitlement resolution, assuming that the City is able to exercise its rights within respective franchise agreements to relocate the utilities in conflict with the planned street trees and improvement along Old Bayshore Highway as part of the Old Bayshore Highway Corridor Feasibility Study. Once the utilities have been relocated, it is expected the will plant street trees in accordance with the following:
  - a. Street trees shall be planted in the City right-of-way along Old Bayshore Boulevard, as many as can be placed in accordance with City standards. Placement and spacing subject to City approval, aiming for even spacing between 25'-30'.
  - b. Trees shall be healthy stock and of standard form.
  - c. Trees shall be 24-inch box size specimens.
  - d. Species shall be *Platanus acerifolia* 'Columbia'.
  - e. Trees shall be double staked with bubbler irrigation supplied to each root ball (as specified in the attachment).

Should it be determined by the City that the utilities in conflict are not able to be relocated in entirety or should the City determine utilities cannot be relocated at the time of the

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approval of the encroachment permit for offsite improvements, the Developer agrees to pay an in-lieu fee for each street tree not planted prior to Certificate of Occupancy. The in-lieu fee shall be a total of \$3,600 per tree for each of the twenty-two (22) street trees not planted in the City right-of-way along Old Baysshore Highway;

22. that the applicant shall install shoreline infrastructure to the full elevation specified in the City of Burlingame Map of Future Conditions with the finished floor elevations being raised to 16-feet and public open spaces raised to 17-feet as detailed on the plans submitted to the Planning Division date stamped September 25, 2023, that prior to issuance of a building permit for the superstructure, the applicant shall execute an agreement with the City identifying the landowners', landowners' assignee(s), or owners' association's ongoing maintenance obligations for the shoreline infrastructure approved as part of the development;
23. that prior to issuance of a building permit for the superstructure, a licensed professional engineer retained by the applicant shall certify that the design, specifications, and plans for the construction of shoreline infrastructure are in accordance with FEMA's requirements in Title 44, Section 65.10 of the Code of Federal Regulations (or a similar relevant Title and Section of the Code, if updated) as of the Application Date;
24. that the applicant shall submit a topographic survey of the property, such as a LiDAR or field survey, prepared by a licensed professional land surveyor after completion of site grading and prior to Certificate of Occupancy for each Phase and for every one of the proposed Buildings. Such survey shall be at the landowner or applicant's expense and shall be conducted in consultation with City staff to be approved as compliant with City survey standards;
25. that the applicant shall submit and obtain separate approval of permits for a Comprehensive Master Signage Plan with clear Public Access signage;
26. that prior to building permit issuance for each Building, the applicant shall dedicate a Public Access easement over any trails or other required public access areas shown on the Vesting Tentative Map included in that Building's Phase of the Project . The term of the easements shall be in perpetuity;
27. that prior to building permit issuance, a cross access easement for vehicle circulation and access to parking between parking garages located on Lots 1 and 6 and buildings located on lots 2, 5, and 7 (lot numbering shown on Sheet ENT C-301) shall be recorded with the San Mateo County Assessor and Recorder's Office and a copy of the recorded documents shall be sent to the City Engineer;
28. that the following public amenities, shown on sheets ENT AS-171 - ENT-AS-174, shall be owned, operated, and maintained by the developer, property manager, owners' association or successor in interest in accordance with a maintenance plan to be reviewed

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and approved by the Community Development Director prior to the approval of the certificate of occupancy for the Building in the Phase with which such amenities are delivered:

- a. the public restroom in the southern parking garage
- b. the airplane viewing platform in the southern parking garage
- c. the shoreline exploration area
- d. the nature discovery playground
- e. the outdoor fitness area
- f. the two bay overlook areas on either side of Easton Creek
- g. the public plaza
- h. the performance area and community gathering space
- i. the picnic plaza and event lawn
- j. the bay trail

Public access to public amenities shall be provided. Clear signage shall be provided to indicate public access is allowed, and all public amenities shall be made available to the public from, at minimum, 7 am to 7 pm, 7 days per week. The Southern Parking Structure shall include 40 public parking stalls on Level 1 available daily from, at minimum, 6 am to 10 pm. The Southern Parking Structure shall also include an additional 210 public parking stalls available on weekday evenings from, at minimum, 6 pm to 10 pm, as well as on weekends and State holidays from, at minimum, 6 am to 10 pm;

29. that the areas and improvements within public amenity areas shall be maintained by and at the expense of the property owners or their assignees, or by an owners' association. 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, to protect and ensure the usability of the public access areas and improvements at all times. Within 30 days after notification by the City and/or BCDC staff, the property owners, their assignees, or the owners' association shall correct any maintenance deficiency noted in a staff inspection of the site. The permittees shall obtain approval by or on behalf of the BCDC of any maintenance that involves more than in-kind repair and replacement;
30. that prior to building permit issuance for each Phase, the applicant shall submit a property maintenance and management plan for that Phase, which shall include but not be limited to:
  - a. General cleaning of litter and debris on-site.
  - b. Maintenance of all exterior building materials.
  - c. Maintenance of all landscaping.
  - d. Maintenance of all stormwater treatment and drainage measures.

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- e. Maintenance of all shoreline infrastructure.
  - f. Maintenance of all public access and fire lanes;
31. that if the City determines that the structure interferes with City communications in the City, the property owner shall permit public safety communications equipment and a wireless access point for City communications to be located on the structure in a location to be agreed upon by the City and the property owner where the public safety communications equipment will function at a satisfactory level or better. The applicant shall provide an electrical supply source for use by the equipment. The applicant shall permit authorized representatives of the City to gain access to the equipment location for purposes of installation, maintenance, adjustment, and repair upon reasonable notice to the property owner or owner's successor in interest. This access and location agreement shall be recorded in terms that convey the intent and meaning of this condition;
  32. that the Project shall comply with the Construction and Demolition Debris Recycling Ordinance which requires affected demolition, new construction and alteration projects to submit a Waste Reduction Plan and meet recycling requirements; any partial or full demolition of a structure, interior or exterior, shall require a demolition permit;
  33. that demolition or removal of the existing structures and any grading or earth moving work shall be required to comply with all the regulations of the Bay Area Air Quality Management District (BAAQMD), the Bay Conservation and Development Commission (BCDC), and Caltrans;
  34. that during construction, the applicant shall provide fencing (with a fabric screen or mesh) around all portions of the Project site affected by the Project Phase(s) under construction to ensure that all construction equipment, materials and debris is kept on site;
  35. that storage of construction materials and equipment on the street or in the public right-of-way shall be prohibited;
  36. that construction access routes shall be limited in order to prevent the tracking of dirt onto the public right-of-way, and that off-site paved areas and sidewalks are cleaned;
  37. that the applicant shall prepare a construction staging and traffic control plan for the duration of construction for review and acceptance by the City Engineer prior to the issuance of a building permit for vertical construction; the construction staging plan shall include construction equipment parking, construction employee parking, timing and duration of various Phases of construction and construction operations hours; the staging plan shall address public safety and shall ensure that worker's vehicles and construction equipment shall not be parked in public parking areas with exceptions for construction parking along the street frontages of the Project site;

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38. that the Project applicant and its construction contractor(s) shall develop a construction management plan (CMP) for review and approval by Public Works Engineering. The plan must be consistent with the Development Agreement and must include at least the following items and requirements to reduce, to the maximum extent feasible, traffic and parking congestion during construction:
- a. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, designated construction access routes, and safe pedestrian traffic routing measures;
  - b. Identification of haul routes for movement of construction vehicles that would minimize impacts on motor vehicular, bicycle and pedestrian traffic, circulation and safety, and specifically to minimize impacts to the greatest extent possible on streets in the Project area;
  - c. Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur;
  - d. Provisions for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the Project applicant; and
  - e. Designation of a readily available contact person for construction activities who would be responsible for responding to any local complaints regarding traffic or parking. This coordinator would determine the cause of the complaint and, where necessary, would implement reasonable measures to correct the problem;
39. that if construction is done during the wet season (October 1 through April 30), that prior to construction during the wet season the developer shall implement a winterization program to minimize the potential for erosion and polluted runoff by inspecting, maintaining and cleaning all soil erosion and sediment control prior to, during, and immediately after each storm even; stabilizing disturbed soils throughout temporary or permanent seeding, mulching matting, or tarping; rocking unpaved vehicle access to limit dispersion of mud onto public right-of-way; covering/tarping stored construction materials, fuels and other chemicals;
40. that trash enclosures and dumpster areas (except temporary enclosures or areas during construction) shall be covered and protected from roof and surface drainage and that if water cannot be diverted from these areas, a self-contained drainage system shall be provided that discharges to an interceptor;
41. that this Project shall comply with the state-mandated water conservation program, and a complete Irrigation Water Management and Conservation Plan together with complete landscape and irrigation plans associated with each Project Phase shall be provided at the time of building permit application for vertical construction of that Phase;
42. that the applicant shall comply with Ordinance 1503, the City of Burlingame Storm Water

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Management and Discharge Control Ordinance;

43. that this Project shall comply with Burlingame Municipal Code Section 25.31.100, Outdoor Lighting and Illumination;
44. that all Project exterior lighting, except roadway and select site lighting needed for public safety, would be required to be controlled with an astronomic timeclock to reduce brightness levels or turn off select lights at either 10 pm (facade lighting) or 12 midnight (non-essential site lighting). Parking garage lights shall operate with occupancy sensors to dim lights to 50 percent level during periods of inactivity, including rooftop parking areas. In addition, all lights in the parking garage for vehicular circulation and parking areas shall be full-cutoff fixtures with no light emitted above horizontal. Parking garage light fixtures shall be located/designed to prevent light spillage beyond the garage footprint and include glare shield accessories to mitigate glare from light sources;
45. that the Project shall meet all the requirements of the 2022 California Building and Uniform Fire Codes, as amended by the City of Burlingame and the current Building Codes that are in effect at the time of building permit submittal, as amended by the City of Burlingame;

**The following conditions shall be met during the Building Inspection process prior to the inspections noted in each condition:**

46. that prior to scheduling the foundation inspection a licensed surveyor shall locate the property corners, set the building envelopes;
47. that prior to the underfloor frame inspection the surveyor shall certify the first-floor elevation of the new structures;
48. that prior to scheduling the roof deck inspections, a licensed surveyor shall provide surveyed elevations of the height of the roof deck and parapet and provide certification of that height to the Building Division;
49. that prior to final inspection, Planning Division staff will inspect and note compliance of the architectural details (trim materials, window type, etc.) to verify that the Project has been built according to the approved Planning and Building plans;

### **Public Works:**

Prior to Building Permit Issuance:

50. Based on the scope of work, this is a "Type IV" Project that requires a Stormwater Construction Pollution Prevention Permit. This permit shall be required prior to issuance of a Building Permit. An initial field inspection shall be required prior to the start of any construction (on private property or in the public right-of-way);

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51. As this Project site is within the Flood Zone, each Building shall prepare an “elevation certificate” using FEMA standard forms to demonstrate that the proposed buildings are elevated above the FEMA base elevations and submit a FEMA Conditional Letter of Map Revision for Fill (CLOMR-F) application to remove the parcel out of the Special Flood Hazard Area (SFHA). If the applicant is unable to submit the CLOMR-F application prior to issuance of the certificate of occupancy for each Building, applicant must provide security, which can take the form of a security deposit of at least \$500,000 or a letter of credit of equal amount to Public Works Engineering to be held until such time that the applicant can submit the FEMA CLOMR-F application;
52. A stormwater maintenance agreement shall be recorded with the County for all c3 treatment measures. This agreement must be recorded prior to building permit signoff;
53. Provide a letter from Recology indicating that the proposed trash room sizes are sufficient to service the development;
54. Driveway and sidewalk approaches shall be at least 12” above the flow line of the frontage curb in the street to prevent overflow of stormwater from the street into private property;
55. Submit an erosion control plan. This plan shall include, but not be limited to, delineation of area of work, show primary and secondary erosion control measures, protection of creek or storm drain inlets, perimeter controls, protections for construction access points, and sediment control measures;
56. Subgrade parking is shown to be constructed near the property line. If excavation method is by means of tie-backs, a shoring and tieback agreement shall be required for any encroachment into the City’s right-of-way;
57. A flood contingency plan is required for the garages constructed below the base flood elevation. Review and approval of the plan is required prior to building permit final;
58. Any nonstandard sidewalk details that are constructed in the public right-of-way will require a maintenance agreement with the City as responsibility will be borne by the property owner, their assignee(s), or an owners’ association;
59. Project will be assessed sewer and water capacity charges based on the size of the domestic water meter(s) per the fee schedule at time of building permit issuance;
60. This Project is in the flood zone and must show evidence of floodproofing all structures/utilities that will be inundated as well as provide a flood contingency plan for the occupants;
61. The development will trigger sewer and water capacity fees. These fees will be determined during the building permit Phase and remitted prior to building permit release;
62. Development will require multiple state and federal agency (Caltrans, Water Board, Fish

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and Wildlife, and Army Corp, as applicable) input and approval letters prior to issuance of the site work permit;

63. A photometric study shall be required to confirm the Project is providing sufficient amount of vehicular and pedestrian lighting at a minimum of 0.5FC. Any deficiencies, the Project will be required to sponsor the addition of street lights;
64. All water meters shall be located outside the property line, or inside the property within a public utility easement;
65. The City will review fire hydrant location and determine if they will be private or public hydrants on a case-by-case basis during the building permit review Phase;
66. RP back flow device is required for fire service lines connected to the reservoir;
67. Along with the required Public Works Encroachment Permit, this Project will have a Public Works Conditions and Requirements, outlining the construction requirements and post-construction items for final permit approval;
68. Applicant shall enter into a Subdivision Improvement Agreement prior to Final Map approval, which ensures completion of all proposed off-site public improvements. Such Subdivision Improvement Agreement shall, at minimum, require completion of the following improvements prior to issuance of certificate of occupancy for the first Building: all underground utility improvements, street rehabilitation, street lighting, signage, curb, gutter, sidewalk, and landscape improvements as shown on and proposed in the civil, landscape, and joint trench entitlement plans;
69. Project will be required to construct the following streetscape elements within the Project frontage to the median as shown on sheets ENT C-400, ENT C-401, ENT C-701, ENT L-101, ENT LT-102, and ENT LT-103, which sheets are generally consistent with the Old Bayshore Highway Corridor Feasibility Study: Class IV protected bike lane, roadway resurfacing and restriping, 5' wide planted strip inboard of the curb, 6' wide sidewalks, bus pull-outs and a bus shelter, high-visibility crosswalks, high-low streetlights (spaced as required to maintain public safety and appropriate light levels on the roadway per IES recommended practice), bay trail connection paths, and stormwater treatment;

### **Stormwater:**

Prior to Building Permit Issuance:

70. The Project is required to comply with Provision C.3 of the San Francisco Bay Municipal Regional Stormwater NPDES Permit and must manage stormwater with Low Impact Development control measures, such as bioretention areas, flow-through planters, rain barrels or cisterns, green roofs, pervious pavement, or other stormwater treatment measures designed to infiltrate or detain stormwater runoff. Public right-of-way areas in

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front of development projects that are redeveloped as part of the Project must be included in the impervious surface calculations and runoff must be treated from those areas;

71. Projects that involve demolition of a building will need to ensure that polychlorinated biphenyls do not enter the storm drains per Municipal Code Chapter 15.15 Managing PCBs during Building Demolition Projects Ordinance. Project applicants must complete, sign, and return the PCBs Screening Assessment Form before issuance of the building permit as part of the plan review process, the form is available at [www.burlingame.org/stormwaterdevelopment](http://www.burlingame.org/stormwaterdevelopment). For assistance with completing the form, please review the PCBs in Priority Building Materials Applicant Package, which is also available at the website referenced above;
72. ensure that all stormwater treatment areas outlined in the civil plans are also shown consistently on the landscape plans;
73. The building permit application plans shall show the marking of the words “No Dumping! Flows to Bay” or equivalent on all storm drain inlets surrounding and within the Project site consistent with the San Mateo Countywide Water Pollution Prevention Program’s C.3 Regulated Projects Guide;
74. Trash storage areas (including recyclables and compostables or similar areas), wash areas, loading docks, repair/maintenance bays, and equipment or material storage areas shall be completely covered and bermed to ensure that no stormwater enters the covered area. Covered areas shall be graded so that spills and washwater flow to area drains connected to the sanitary sewer system, subject to the local sanitary sewer agency’s authority and standards;
75. Interior level parking garage floor drains, and any other interior floor drains, shall be connected to the sanitary sewer system;
76. Fire sprinkler test waster shall discharge to onsite vegetated areas, or alternatively shall be discharged to the sanitary sewer system;
77. Air conditioning condensate shall drain to landscaping, or alternatively may be connected to the sanitary sewer system;
78. All construction projects, regardless of size, must prevent stormwater pollution from construction-related activities. Project applicants shall ensure that all contractors implement appropriate and effective Best Management Practices (BMPs) during all Phases of construction, including demolition. When submitting plans for a building permit, please include the Construction BMP plan sheet. An electronic file is available at: [www.burlingame.org/stormwaterdevelopment](http://www.burlingame.org/stormwaterdevelopment);
79. Since the Project will disturb one (1) or more acres of soil, the P must obtain coverage under the Construction General Permit from the State Water Resources Control Board. When submitting plans for a building permit, please include the Project’s WDID # and a

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copy of the Notice of Intent (NOI) for Construction General Permit coverage;

80. Post-construction treatment measures must be designed, installed, and hydraulically-sized to treat a specified amount of runoff. The Project plan submittals shall identify the owner and maintenance party responsible for the ongoing inspection and maintenance of the post-construction stormwater treatment measures. A completed, notarized Stormwater Treatment Measure Maintenance Agreement shall be submitted to the City prior to the issuance of a final construction inspection;

### **Building:**

Prior to Building Permit Issuance:

81. All elements on the site must be accessible including all exterior paths of travel, usable exterior spaces such as the outdoor terraced seating area. The accessible path of travel must connect to all entrances of the buildings;
82. For the truck parking area within the buildings for loading and unloading, a fuel loading analysis must be provided to verify level of hazard and mitigating measures;
83. If occupied roof terrace on level 11 of the North or Center Buildings have an occupant load over 100, one of the two exits shall go through a one-hour corridor leading to the stair;
84. Provide a narrative describing how the garage levels will be ventilated per CMC 403.7. Include information on where garage exhaust will terminate as garage exhaust is considered environmental air and shall comply with CMC 502.2.1;
85. Elevator car shall be able to accommodate an ambulance stretcher, 24" x 84", per CBC 3002.4 and 3002.4a;
86. Roof deck shall be designed with a live load of 1.5 times the live load for the area served and not required to exceed 100 psf. CBC Table 1607.1;
87. High rise buildings of Risk Category III must comply with Section 403.2.3;
88. Fire service access elevators complying with Section 403.6.1 shall be provided;
89. Provide two completed copies of the Mandatory Measures with the submittal of building permit plans for Building Code compliance plan check. In addition, replicate this completed document on the plans. Note: On the Checklist a reference must be provided that indicates the page of the plans on which each Measure can be found. BMC 18.30.040, 18.30.045 & 18.30.050;
90. Provide two completed copies of the (N) Non-Residential Reach Code Checklist under the City's 2020 Reach Code with the submittal of building permit plans for Building Code compliance plan check. In addition, replicate this completed document on the plans. Note:

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On the Checklist a reference must be provided that indicates the page of the plans on which each Measure can be found. Burlingame Ordinance 1981. Nonresidential Buildings. <http://www.burlingame.org/reachcode;>

### Fire:

Prior to Building Permit Issuance:

91. The Project shall comply with the Alternate Means of Protection/Materials/Methods of Construction issued by Central County Fire dated September 12, 2023, with the following mitigations:
  - Upgrade both Parking Structures to Construction Type 1A
  - Extend all egress stairs in buildings and parking structures up to the roof in stairwell penthouse enclosures
  - Add Fire Command Centers on the ground level of both Parking Structures, with sidewalk access
  - Provide layby lanes sized for fire truck use, with no parking signage, near each of the building lobbies
  - In Building typical floors (designed for B and L use), upgrade sprinkler density to Ordinary Hazard Group 2;
92. that the Alternate Means of Protection/Materials/Methods of Construction issued by Central County Fire dated September 12, 2023, with mitigations, shall be included in the Project construction plans which shall remain a part of all sets of approved plans throughout the construction process. Compliance with all mitigations is required and shall not be modified or changed without the approval of Central County Fire;
93. that prior to formal submittal of the encroachment permit application by the City on behalf of the applicant for the Project's improvements proposed to the intersection at the US-101 Offramp and Bayshore Highway, the applicant shall receive approval from Central County Fire that the design of such improvements does not impede emergency response routes or vehicles, and that following approval from Caltrans for such improvements, the applicant shall include reflective paint and/or other means in the design and construction of the two medians proposed to make them clearly visible, particularly during evening and early morning hours to avoid conflicts with motorists;
94. All buildings are determined to be high rise buildings. All CBC/CFC requirements for high rise buildings shall apply;
95. Project summary states plans are being submitted as a Group B occupancy but Group L requirements are being incorporated. Building permit plans must be specific to L requirements for infrastructure, mechanical spaces, etc.;
96. The building shall be equipped with an approved NFPA 13 sprinkler system. Sprinkler

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drawings shall be submitted and approved by the Central County Fire Department prior to installation;

97. The fire sprinkler system shall be electronically monitored by an approved central receiving station;
98. The applicant shall ensure proper drainage in accordance with the City of Burlingame Engineering Standards is available for the fire sprinkler main drain and inspector test on the building plumbing drawings. These items may drain directly to landscape or in the sewer with an air gap;
99. The fire protection underground water line shall be submitted and approved by the Burlingame Building Department prior to approval of aboveground fire sprinkler permit and fire standpipe system by the Central County Fire Department;
100. The buildings shall be equipped with an approved Class III NFPA 14 Standpipe System. The standpipe system shall be submitted and approved by the Central County Fire Department prior to installation. Outlets shall be located on the intermediate stair landing of each floor;
101. A UL listed and certified manual and automatic fire alarm system shall be installed throughout the buildings;
102. Approved emergency radio communication capability is required throughout the buildings. If building construction/layout cannot accommodate required radio communication strength, an emergency responder radio coverage system is required throughout. Permit required to be obtained through the Central County Fire Dept. prior to installation. Riser wiring survivability rating shall be the same as interior wall ratings. Infrastructure should be designed for this rated shaft, alternates for this requirement will not be approved later in lieu of the rated shaft. Due to the proximity of the buildings, a single exterior antenna should be used to reduce potential frequency interference;
103. Phase I & II elevator recall for firefighter emergency operation shall be required;
104. Elevator shunt trip (causing loss of power) is not allowed. Sprinkler head at top of elevator shaft and in machine room not allowed. Elevator machine room must be constructed of the same rating as the elevator shaft;
105. All buildings shall have a Knox key box for emergency Fire Dept. access.
106. Provide a fire pump in accordance with NFPA 20 and secondary water supply as required per CBC 403.3.3;

### **Parks:**

107. New landscape plan shall meet the Water Efficient Landscape Ordinance (WELO). Submit

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non-residential checklist for review with the building permit submittal. Irrigation Plans shall be required as part of the building permit submittal;

***The following conditions of approval are mitigation measures that the Project will be required to comply with as identified in the Environmental Impact Report prepared for the Project:***

108. **Mitigation Measure AIR-1a: Construction Emissions Minimization.** During Project construction, the construction contractor shall comply with the BAAQMD's current basic control measures for reducing construction emissions of fugitive PM10 and PM2.5. The construction contractor shall comply with the following:
- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - All haul trucks transporting soil, sand, or other loose material offsite shall be covered.
  - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD phone number shall also be visible to ensure compliance with applicable regulations;
109. **Mitigation Measure AIR-1b: Off-Road Equipment Tiers.** All construction equipment above 50 horsepower shall either be powered by electricity, or meet or exceed either EPA or CARB Tier 4 Final off-road emission standards if they are powered by diesel;

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110. **Mitigation Measure AIR-1c: Haul Truck Tiers.** During Project construction, on-road haul trucks shall be equipped with 2010 or newer model year engines;
111. **Mitigation Measure AIR-1d: Exterior Paint.** The exteriors of the life science/office buildings will not be painted; rather, the exteriors shall entirely consist of glass, concrete or coated materials painted at the time of fabrication at an offsite facility;
112. **Mitigation Measure AIR-1e: Interior Paint.** During Project construction and operation, the Project applicant shall use super-compliant architectural coatings during construction, and during operations that occur concurrent with construction for all buildings, which shall have volatile organic compound (VOC) content that meet South Coast Air Quality Management District (SCAQMD) Rule 1113 Architectural Coatings as revised on February 5, 2016;
113. **Mitigation Measure AIR-2: Zero-Emission Landscaping Equipment.** During Project operation, zero-emission landscaping equipment shall be used over conventional gasoline-fueled counterparts. The requirement for zero-emission landscaping equipment shall be included in the Project's landscaping maintenance agreement;
114. **Mitigation Measure BIO-1a: Worker Environmental Awareness Training.** Personnel involved in outfall replacement and bridge construction over Easton Creek shall be trained by a qualified biologist (experienced in construction monitoring, as approved by the City/Agency) in the importance of the marine environment to special-status fish and other aquatic animals, and the environmental protection measures put in place to prevent impacts to these species, their habitats, and EFH. The training shall include, at a minimum, the following:
  - A review of the special-status fish and other aquatic animals, and sensitive habitats that could be found in or downstream from work areas.
  - Measures to avoid and minimize adverse effects to special-status fish and other aquatic animals, their habitats, and EFH.
  - A review of all conditions and requirements of environmental permits, reports, and plans (e.g., USACE permits);
115. **Mitigation Measure BIO-1b: Seasonal In-Water Restrictions.** In-water work for outfall replacement shall be conducted between June 1 through November 30, based on the standard work windows for steelhead and Pacific herring. If completion of in-water work within this period is not feasible due to scheduling issues, new timing guidelines shall be established and approved by NMFS and CDFW prior to initiation of in-water work;
116. **Mitigation Measure BIO-1c: Fish Exclusion at Dewatering Sites.** Prior to outfall replacement, Construction contractor shall install cofferdams to dewater the work areas. Cofferdams must be constructed with materials to effectively dewater the work area (e.g., inflatable rubber dams, sheet piles, or other materials). If inflatable rubber cofferdams are

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used, they must be installed at low tide when the work area is fully drained. If sheet pile cofferdams or other materials are used, the two sidewalls of the cofferdam must be placed first, followed by the final wall of the cofferdam on the downslope side (closest to the Easton Creek centerline). The final wall must be placed at low tide to minimize the amount and depth of water present within the cofferdam. Just before the final wall is installed, if water is present within the coffer dam, qualified biologists may use nets (with a maximum mesh size of 9.5 millimeters) to exclude fish from the construction area. At low tide, qualified biologists shall walk from the upper edge of the work area to the lower edge of the work area with a seine stretched across any wetted portion of the work area to encourage fish to move out of the construction area through the gap where the final wall would be installed. When the lower end of the construction area is reached, a block net would be installed in that gap to prevent fish from moving back into the cofferdam. This procedure shall be repeated until no fish remain in the dewatered area. The final sheet pile must then be installed. Upon completion of in-water work activities, coffer dams shall be removed in a manner that would allow flow to resume with the least disturbance to the substrate;

117. **Mitigation Measure BIO-1d: Nesting Bird Protection Measures.** Nesting birds and their nests shall be protected during construction by use of the following measures:

- a. The construction contractor shall conduct initial vegetation removal, tree trimming and removal, ground disturbance, and demolition of existing buildings outside the bird nesting season (February 1 to August 31);
- b. If vegetation removal, tree trimming and removal, ground disturbance, and demolition of existing buildings during the nesting season cannot be fully avoided, a qualified wildlife biologist (as determined by CDFW) shall conduct pre-construction nesting surveys during the bird nesting season seven (7) or fewer days prior to the start of such activities or after any construction breaks of 14 days or more. Surveys shall be performed for the Project site, vehicle and equipment staging areas, and suitable habitat within 250 feet in order to locate any active passerine (songbird) nests and within 500 feet of these individual sites to locate any active raptor (birds of prey) nests.
  - i. If active nests are located during the pre-construction nesting bird survey, the qualified wildlife biologist shall evaluate if the schedule of construction activities could affect the active nests and the following measures shall be implemented based on their determination:
    - a. If construction is not likely to affect the active nest, construction may proceed without restriction; however, a qualified biologist shall regularly monitor the nest at a frequency determined appropriate for the surrounding construction activity to confirm there is no adverse effect. Spot-check monitoring frequency would be determined on a nest-by-nest basis considering the particular construction activity,

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duration, proximity to the nest, sensitivity of the species to disturbance, and physical barriers that may screen activity from the nest. The qualified biologist may revise his/her determination at any time during the nesting season in coordination with the City of Burlingame.

- b. If it is determined that construction may affect the active nest, the qualified biologist shall establish a no-disturbance buffer around the nest(s) and all Project work shall halt within the buffer until a qualified biologist determines the nest is no longer in use. Typically, these buffer distances are 250 feet for passerines and 500 feet for raptors; however, the buffers may be adjusted due to the pre-construction disturbance level and/or if an obstruction, such as a building, is within line-of-sight between the nest and construction.
  - c. Modifying nest buffer distances, allowing certain construction activities within the buffer, and/or modifying construction methods in proximity to active nests shall be done at the discretion of the qualified biologist and in coordination with the City of Burlingame, who would notify CDFW.
  - d. Any work that must occur within established no-disturbance buffers around active nests shall be monitored by a qualified biologist. If adverse effects in response to Project work within the buffer are observed and could compromise the nest, work within the no-disturbance buffer(s) shall halt until the nest occupants have fledged.
- ii. Any birds that begin nesting within the Project site and survey buffers amid construction activities shall be assumed to be habituated to construction-related or similar noise and disturbance levels and no work exclusion zones shall be established around active nests in these cases; however, should these nesting birds begin to show disturbance associated with construction activities that could result in nest failure, no-disturbance buffers shall be established as determined by the qualified wildlife biologist;
118. **Mitigation Measure BIO-1e: Avoidance and Minimization Measures for Bats.** A qualified biologist (as defined by CDFW) who is experienced with bat surveying techniques (including auditory sampling methods), behavior, roosting habitat, and identification of local bat species shall be consulted prior to initiation of construction activities to conduct a pre-construction habitat assessment of the Project site to characterize potential bat habitat and identify potentially active roost sites. No further action is required should the pre-construction habitat assessment not identify bat habitat or signs of potentially active bat roosts within the Project site (e.g., guano, urine staining, dead bats, etc.).

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The following measures shall be implemented should potential roosting habitat or potentially active bat roosts be identified during the habitat assessment in buildings to be demolished or relocated, or in trees adjacent to construction activities that could be trimmed or removed within the study area:

- a. In areas identified as potential roosting habitat during the habitat assessment, initial building demolition, relocation, and any tree work (trimming or removal) shall occur when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15. These periods avoid the bat maternity roosting season and period of winter torpor.
- b. If construction occurs during the roosting season, the qualified biologist shall conduct pre-construction surveys of potential bat roost sites identified during the initial habitat assessment no more than 14 days prior to building demolition or relocation, or any tree trimming or removal.
- c. If active bat roosts or evidence of roosting is identified during pre-construction surveys for building demolition or tree work, the qualified biologist shall determine, if possible, the type of roost and species. A no-disturbance buffer shall be established around roost sites until the start of the seasonal windows identified above, or the qualified biologist determines roost sites are no longer active. The size of the no-disturbance buffer would be determined by the qualified biologist and would depend on the species present, roost type, existing screening around the roost site (such as dense vegetation or a building), as well as the type of construction activity that would occur around the roost site.
- d. Buildings and trees with potential bat roosting habitat or active roosts shall be disturbed only under clear weather conditions when precipitation is not forecast for three days and when daytime temperatures are at least 50 degrees Fahrenheit.
- e. The demolition of buildings containing or suspected to contain potential bat roosting habitat or active bat roosts shall be done under the supervision of the qualified biologist during daytime. When appropriate, buildings shall be partially dismantled to significantly change the roost conditions, causing bats to abandon and not return to the roost, likely in the evening and after bats have emerged from the roost to forage. Under no circumstances shall active maternity roosts be disturbed until the roost disbands at the completion of the maternity roosting season or otherwise becomes inactive, as determined by the qualified biologist.
- f. Trimming or removal of existing trees with potential bat roosting habitat or active (non-maternity or hibernation) bat roost sites shall follow a two-step removal process (which shall occur during the time of year when bats are active, according to a) above.
  - i. On the first day and under supervision of the qualified biologist, tree

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branches and limbs not containing cavities or fissures in which bats could roost shall be cut using chainsaws or other handheld equipment.

- ii. On the following day and under the supervision of the qualified biologist, the remainder of the tree may be trimmed or removed, either using chainsaws or other equipment (e.g., excavator or backhoe).
- iii. All felled trees shall remain on the ground for at least 24 hours prior to chipping, off-site removal, or other processing to allow any bats to escape, or be inspected once felled by the qualified biologist to ensure no bats remain within the tree and/or branches;

119. **Mitigation Measure BIO-2a: In-Situ Restoration of Temporary Impacts.** Although much of the impact on tidal salt marsh and open water/tidal aquatic habitat in Easton Creek resulting from outfall replacement will be permanent, some of the impacts may be temporary, occurring only during removal of the existing outfalls and installation of new ones. All temporarily impacted areas (i.e., areas where new hardened material will not be placed) will be restored by the Project applicant or designee following construction by restoring topography and soils to pre-Project conditions. The sparse pickleweed habitat along Easton Creek is likely to become recolonized easily without the need for seeding and planting, as long as the existing hydrology and topography are restored following temporary impacts;

120. **Mitigation Measure BIO-2b: Compensatory Mitigation for Permanent Impacts.** The Project applicant will provide compensatory mitigation for permanent loss of tidal salt marsh and open water/tidal aquatic habitat resulting from direct fill from outfall replacement, and for potential loss of tidal salt marsh from shading from bridges. The Project applicant will provide new wetland or aquatic habitat of the same type that was impacted to offset this impact, either through the creation, enhancement, or restoration of wetlands in an appropriate location or via the purchase of mitigation credits in a USACE, BCDC, and/or RWQCB-approved wetland mitigation bank. The purchase of such credits at a 1:1 ratio, on an acreage basis, or as specified by any state or federal permitting agencies, shall serve as full mitigation for impacts to these wetland features. If Project-specific creation, enhancement, or restoration of wetland habitat is implemented, habitat will be restored or created at a minimum ratio of 1:1 (compensation: impact) on an acreage basis, or as otherwise required by any state or federal permitting agencies. USACE, BCDC, and/or RWQCB approvals may be required to authorize permanent impacts to this feature.

If compensatory mitigation is not provided by purchasing mitigation credits from a USACE- or RWQCB-approved wetland mitigation bank, then, the Project applicant will provide compensation by creating, enhancing, or restoring wetland habitat so as to achieve the 1:1 ratio somewhere in San Mateo County, or as otherwise required by any state or federal permitting agencies. A qualified biologist shall develop a "Wetland Mitigation and

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Monitoring Plan” describing the mitigation, which will contain the following components (or as otherwise modified by regulatory agency permitting conditions):

- a. Summary of habitat impacts and proposed mitigation ratios
  - b. Goal of the restoration to achieve no net loss of habitat functions and values
  - c. Location of mitigation site(s) and description of existing site conditions
  - d. Mitigation design:
    - i. Existing and proposed site hydrology
    - ii. Grading plan if appropriate, including bank stabilization or other site stabilization features
    - iii. Soil amendments and other site preparation elements as appropriate
    - iv. Planting plan
    - v. Irrigation and maintenance plan
    - vi. Remedial measures and adaptive management
  - e. Monitoring plan (including performance criteria, monitoring methods, data analysis, reporting requirements, and monitoring schedule). Success criteria will include quantifiable measurements of wetland vegetation type (e.g., dominance by natives) and extent appropriate for the restoration location, and provision of ecological functions and values equal to or exceeding those in the wetland habitat affected. At a minimum, success criteria will include following:
    - i. At Year 5 post-mitigation, at least 75 percent of the mitigation site for tidal salt marsh will be dominated by native hydrophytic vegetation.
121. The Wetland Mitigation and Monitoring Plan must be approved by the City of Burlingame prior to the wetland impacts, and implementation of the Plan must begin within one year after the discharge of fill into or construction of a bridge over tidal salt marsh or open water/tidal aquatic habitat;
122. **Mitigation Measure CUL-2a: Cultural Resources Awareness Training.** Before any ground-disturbing and/or construction activities, an archaeologist meeting or under the supervision of an archaeologist meeting the Secretary of the Interior Standards for Archeology shall conduct a training program for all construction and field personnel involved in ground disturbance. If a Native American tribe has expressed interest in the Project via tribal consultation, they will be invited to participate in the training program. On-site personnel shall attend a mandatory pre-Project training that shall outline the general

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archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered. A training program shall be established for new Project personnel before they begin Project work;

123. **Mitigation Measure CUL-2b: Inadvertent Discovery of Cultural Resources.** If pre-contact or historic-era archaeological resources are encountered during Project implementation, all construction activities within 100 feet shall halt, and a qualified archaeologist, defined as an archaeologist meeting the U.S. Secretary of the Interior's Professional Qualification Standards for Archeology, shall inspect the find within 24 hours of discovery and notify the City of their initial assessment. Pre-contact archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include building or structure footings and walls, and deposits of metal, glass, and/or ceramic refuse.

If the City determines, based on recommendations from a qualified archaeologist and a Native American representative (if the resource is pre-contact), that the resource may qualify as a historical resource or unique archaeological resource (as defined in CEQA Guidelines Section 15064.5) or a tribal cultural resource (as defined in PRC Section 21080.3), the resource shall be avoided, if feasible. Consistent with Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement.

If avoidance is not feasible, the City shall consult with appropriate Native American tribes (if the resource is pre-contact), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC Section 21083.2, and CEQA Guidelines Section 15126.4. This shall include documentation of the resource and may include data recovery (according to PRC Section 21083.2), if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource (according to PRC Section 21084.3);

124. **Mitigation Measure CUL-3: Inadvertent Discovery of Human Remains.** In the event of discovery or recognition of any human remains during construction activities, such activities within 100 feet of the find shall cease until the appropriate County Coroner has been contacted to determine that no investigation of the cause of death is required. The Native American Heritage Commission (NAHC) will be contacted within 24 hours if it is determined that the remains are Native American. The NAHC will then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the lead agency for the appropriate means of treating the human remains and any grave goods;

125. **Mitigation Measure HAZ-1: Construction Soil and Groundwater Management Plan.**

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The contractor conducting excavation of fill and soil and dewatering of excavations shall develop and implement a soil and groundwater management plan (SGMP) for the management of soil, fill, soil gas, and groundwater before any ground-disturbing activity to manage contaminated materials, if encountered. The SGMP shall include the following, at a minimum:

- Site description, including the hazardous materials that may be encountered.
- Roles and responsibilities of on-site workers, supervisors, and the regulatory agency.
- Training for site workers focused on the recognition of and response to encountering hazardous materials or unknown structures, e.g., underground storage tanks (USTs).
- Notification requirements in the event of discovery of unknown structures or contamination.
- Protocols for the materials (fill, soil, and dewatering effluent) testing, handling, removing, transporting, and disposing of all excavated materials and dewatering effluent in a safe, appropriate, and lawful manner.
- Reporting requirement to the overseeing regulatory agency, if any contamination is found that requires agency oversight, documenting that site activities were conducted in accordance with the SGMP.

The SGMP shall be submitted to the SMCEHS and the City of Burlingame Building Division for review to inform their permit approval process before the start of demolition and construction activities and as a condition of the grading, construction, and/or demolition permit(s). The contract specifications shall mandate full compliance with all applicable federal, state, and local regulations related to the identification, transportation, and disposal of hazardous materials.

The SGMP shall include measures to remove and/or treat/remediate the impacted soil, fill, and groundwater, as needed, in a manner that is protective of human health and the environment and compatible with commercial land use, in compliance with all applicable regulatory standards, under supervision of a qualified environmental professional. The SGMP shall describe measures for (i) management of excavated soil, fill, and groundwater, (ii) characterization of soil and fill to determine whether they qualify as hazardous waste under regulations such as 22 C.C.R. Section 66262.11 or other regulations identified in the SGMP or otherwise identified by the oversight agencies, and (iii) offsite disposal of excavated soil and fill, and disposal of dewatered groundwater in compliance with all applicable regulations. The SGMP shall also provide measures for the evaluation of vapor intrusion risk at the Project site, and if necessary, modification of the Project design and/or installation of a vapor intrusion mitigation system consistent with the

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procedures and performance standards set forth in DTSC’s October 2011 Vapor Intrusion Mitigation Advisory or as otherwise determined applicable by the oversight agency at the time of construction.

For work that would encounter groundwater, as part of the SGMP, the contractor(s) shall include a groundwater dewatering control and disposal plan specifying how groundwater (dewatering effluent) will be handled and disposed of in a safe, appropriate, and lawful manner. The groundwater portion of the SGMP shall include the following, at a minimum:

- The locations at which groundwater dewatering is likely to be required.
- Test methods to analyze groundwater for hazardous substances.
- Appropriate treatment and/or disposal methods.
- Discussion of discharge to a publicly owned treatment works or the stormwater system, in accordance with any regulatory requirements the treatment works may have, if this effluent disposal option is to be used; and

126. **Mitigation Measure UTIL-2: Contribute to Water Conservation Programs under the City’s Development Offset Program.** Per the Development Offset Program and the WSA, the Project applicant shall make a monetary contribution to pay for its fair share of funding of water conservation programs to offset the Project’s contribution to the City’s water supply shortfall of 4.2 MGY during multiple dry years. The Project applicant shall make this contribution in three installments prior to issuance of Certificate of Occupancy for each of the three office/R&D buildings in amounts calculated at that time which are proportional to each building’s square footage.

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Donna Colson, Mayor

I, Meaghan Hassel-Shearer, City Clerk of the City of Burlingame, do hereby certify that the foregoing resolution was adopted at a regular meeting of the City Council held on the 1<sup>st</sup> day of April, 2024 by the following vote:

|         |                 |
|---------|-----------------|
| AYES:   | COUNCILMEMBERS: |
| NOES:   | COUNCILMEMBERS: |
| ABSENT: | COUNCILMEMBERS: |

\_\_\_\_\_  
Meaghan Hassel-Shearer, City Clerk