

**STAFF REPORT
C73**

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R. B. Greenwood

NON-EXCLUSIVE GEOLOGICAL SURVEY PERMIT

APPLICANT:

Burlingame Point, LLC

BACKGROUND:

Burlingame Point, LLC, (Applicant) has applied for a 1-year Non-Exclusive Geological Survey Permit (Permit). The Permit would allow gathering data that the Applicant will use in evaluating the feasibility of building a pedestrian bridge over Sanchez Channel on filled tide and submerged lands adjacent to the San Francisco Bay. The proposed survey involves obtaining subsurface information by drilling one vertical boring and performing two cone penetration tests (CPTs) to a maximum depth of 100 feet. Drilling and sampling will require approximately 3 days and be conducted over a period of 1 year.

The samples will be collected using rotary drilling methods, down-hole sampling, and testing from a self-contained, truck-mounted drilling rig and truck, truck-mounted cone penetrometer, and barge-mounted cone penetrometer at locations more or less as depicted on attached Exhibit A. The 3 7/8-inch-diameter bore hole will be drilled, with water or a bentonite clay drilling fluid, in a closed circulation system isolated from the adjacent bay waters. After drilling and sampling, the borehole will be backfilled with cement grout. Excess drill cuttings, drilling fluid, and wash water will be retained and properly disposed of off-site. The truck and barge mounted penetrometers will use a 1.4-inch to 1.7-inch diameter instrumented rod. The barge is 30 feet wide and 100 feet long and 5 feet deep. The barge will be temporarily anchored by using two steel rods, called spuds, driven into the channel bottom.

Upon request, the Commission will receive copies of all data collected under this Permit. During ground boring operations for site B-1, the permittee shall not restrict public access onto State property on the west side of Sanchez Channel off Airport Boulevard. The Permittee shall maintain security fencing around the work site to ensure safe passage by the public. The proposed boring is authorized on the condition that all existing fences and barriers are replaced, and new security fencing removed immediately following the conclusion of the proposed boring work.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6212.2, 6216, and 6301; California Code of Regulations, title 2, section 2100.

Public Trust and State's Best Interests Analysis:

Burlingame Point, LLC, is a real estate development company and this authorization would allow the Applicant to investigate subsurface soil conditions and obtain foundation design data. Collection of scientific data is a use recognized by the courts to be consistent with the common law Public Trust Doctrine. (See, for example, *Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260.) The Permit contains restrictions that protect public rights and environmental resources; for example, the Permit would be non-exclusive and is limited to 1 year. Staff believes that granting the Permit will not substantially interfere with Public Trust needs at this location at this time and for the foreseeable term of the permit.

For all the reasons above, staff believes the approval of the Permit application is consistent with the common law Public Trust Doctrine and is in the best interests of the State. Staff recommends approval of this Non-Exclusive Geological Survey Permit application.

TERM OF PROPOSED PERMIT:

1 year beginning February 27, 2018, through February 26, 2019.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Required fees, expense deposit and other security have been received.

OTHER PERTINENT INFORMATION:

1. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

2. This action is consistent with the Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.

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EXHIBIT:

- A. Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(1).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that proposed Permit will not substantially interfere with Public Trust needs and values, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a Non-Exclusive General Permit to conduct Geological Surveys to Burlingame Point, LLC, for the period February 27, 2018, through February 26, 2019, within the project locations as shown on Exhibit A, attached and incorporated by reference herein.

Exhibit A

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