

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Morrison & Foerster  
425 Market Street  
San Francisco, California 94105-2482  
Attention: Zane O. Gresham

APNs:  
015-010-240, 015-010-630; and  
portions of 015-010-260,  
015-010-270, 015-010-600,  
015-190-170 and 015-190-190

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(Space Above This Line Reserved For Recorder's Use)

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
CITY OF SOUTH SAN FRANCISCO  
AND  
OYSTER POINT VENTURES, LLC**

## **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the “**Agreement**”) is entered into as of March 23, 2011 by and between the City of South San Francisco (“**City**”), and Oyster Point Ventures, LLC (“**Developer**”), pursuant to California Government Code Section 65864 et seq.

### **RECITALS**

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California enacted California Government Code Section 65864 et seq. (the “**Development Agreement Statute**”), which authorizes City to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property.

B. Pursuant to California Government Code Section 65865, City has adopted procedures and requirements for the consideration of development agreements (City Ordinance No. 909). This Development Agreement has been processed, considered and executed in accordance with such procedures and requirements.

C. Developer has a legal and/or equitable interest in certain real property consisting of approximately forty-six (46) acres located in the Oyster Point area of the City of South San Francisco, San Mateo County, California, as more particularly described in Exhibit A attached hereto, and as diagrammed in Exhibit B attached hereto (the “**Project Site**”).

D. Developer intends to develop the Project Site as a life sciences campus consisting of research and development and office buildings, comprising a total of up to two million, two hundred fifty-four thousand, two hundred thirty (2,254,230) gross square feet of development, based on square footage yielded from 1.25 FAR, together with certain public amenities, including public open space and recreational areas and other uses (defined more fully in Section 3.02 below as the “**Project**”).

E. This Agreement is based upon and was written to achieve two basic purposes: First, that the City will be kept and/or made whole by Developer with respect to all aspects (e.g., fiscal impacts, etc.) of the planning, development, maintenance and operation of the Project including, among other things, the costs to the City of providing the Project with public services and facilities and mitigating the Project’s environmental impacts; and second, that Developer will have a full and vested right to develop, use and operate the Project and the Project Site as set forth herein. The rights and obligations of the parties to the Agreement shall be construed and interpreted in such a manner as shall give full effect to each of these purposes.

F. Prior to or concurrently with approval of this Agreement, City has taken several actions to review and plan for the future development of the Project. These include, without limitation, the following:

1. Environmental Impact Report. The environmental impacts of the Project, including the Project Approvals and the Subsequent Approvals, as defined below, and numerous alternatives to the Project and its location, have properly been reviewed and assessed by City pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 et seq.; California Code of Regulations Title 14, Section 15000 et seq.; and City's local guidelines promulgated thereunder (hereinafter collectively referred to as "**CEQA**"). On March 23, 2011, pursuant to CEQA and in accordance with the recommendation of the Planning Commission for the City of South San Francisco (the "**Planning Commission**"), the City Council certified a final environmental impact report covering the Project (the "**EIR**"). As required by CEQA, by Resolution No. 46-2011, the City adopted written findings and a mitigation monitoring and reporting program (the "**MMRP**") prior to approving the Project Approvals.

2. General Plan Amendment. Following review and recommendation by the Planning Commission and after a duly noticed public hearing and certification of the EIR, the City Council, by Resolution No. 47-2011, approved amendments to the South San Francisco General Plan (the "**General Plan Amendment**").

3. Downtown/Central Redevelopment Plan and Applicable Amendment. The City Council, by City Ordinance No. [\_\_\_], approved amendments to the Redevelopment Plan for the Downtown/Central Redevelopment Project (the "**Redevelopment Plan Amendment**"). The term "Redevelopment Plan Amendment" as used in this Agreement includes an amendment to the Redevelopment Plan, if any such amendment is lawfully adopted no later than September 30, 2011, that is consistent with the Preliminary Plan.

4. Disposition and Development Agreement. Following certification of the EIR, the Redevelopment Agency of the City of South San Francisco ("**RDA**") adopted Resolution No. 18-2011, approving a Disposition and Development Agreement governing property conveyances, infrastructure development, and financing for portions of the Project (the "**DDA**").

5. Zoning Ordinance Amendment. Following Planning Commission review and recommendation, certification of the EIR, and adoption of the General Plan Amendment and the Redevelopment Plan Amendment at a duly noticed public hearing, the City Council adopted City Ordinance No. 1437-2011, approving the Oyster Point Specific Plan and rezoning the Project Site to City's Oyster Point Specific Plan District zoning district (the "**Zoning Ordinance Amendment**").

6. Precise Plan. Following adoption of Resolution No. 2701-2011 recommending City Council certification of the EIR, and a duly noticed public hearing, the Planning Commission adopted Resolution No. 2702-2011, recommending the City Council approve a Precise Plan for Phase I of the Project (the "**Phase I Precise Plan**"), contingent upon City Council approval of the General Plan Amendment, the Zoning Ordinance Amendment, the Development Agreement, and the Redevelopment Plan Amendment and RDA approval of the Disposition and Development Agreement.

7. Transportation Demand Management Plan. Concurrent with the Planning Commission's recommendation of approval of the Phase I Precise Plan, the Planning Commission adopted Resolution No. 2702-2011, approving a Transportation Demand Management Plan for the Project, contingent upon City Council approval of the General Plan Amendment, the Redevelopment Plan Amendment, the Development Agreement, and the Zoning Ordinance Amendment and RDA approval of the Disposition and Development Agreement.

The approvals and development policies described in this Recital F are collectively referred to herein as the "**Project Approvals.**"

G. City has determined that the Project presents certain public benefits and opportunities which are advanced by City and Developer entering into this Agreement. This Agreement will, among other things, (1) reduce uncertainties in planning and provide for the orderly development of the Project; (2) mitigate many significant environmental impacts currently in existence at the Project Site; (3) result in the development of critical public facilities and other infrastructure improvements; (4) strengthen the City's economic base with a variety of high quality long-term jobs, in addition to shorter term construction jobs; (5) provide for and generate substantial revenues for the City in the form of one-time and annual fees, taxes, exactions, and other fiscal benefits; (6) promote high quality design and development; and (7) otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

H. The complexity, magnitude, and long-term build out of the Project would not be feasible if City had not determined, through this Agreement, to provide a sufficient degree of certainty in the land use regulatory process to justify Developer's substantial financial investment associated with development of the Project. In recognition of the benefits to City described in the preceding Recital, together with the other public benefits that will result from the development of the Project, Developer will receive by this Agreement assurance that it may proceed with the Project in accordance with the Applicable Law (defined below), and therefore desires to enter into this Agreement.

I. The City Council, after conducting a duly noticed public hearing, has found that this Agreement is consistent with the General Plan and with the applicable Specific Plan and has conducted all necessary proceedings in accordance with the City's rules and regulations for the approval of this Agreement.

J. On March 14, 2011, following a duly noticed public hearing, the Planning Commission adopted Resolution No. 2702-2011, recommending that the City Council approve this Agreement. Following City Council certification of the EIR and adoption of the General Plan Amendment, the Redevelopment Plan Amendment, the Zoning Ordinance Amendment, and the Precise Plan, the City Council at a duly noticed public hearing adopted City Ordinance No. 1438-2011, approving and authorizing the execution of this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the premises, covenants and provisions set forth herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

### **ARTICLE 1. DEFINITIONS**

“Administrative Agreement Amendment” shall have that meaning set forth in Section 10.02(a) of this Agreement.

“Administrative Project Amendment” shall have that meaning set forth in Section 10.01(a) of this Agreement.

“Agreement” shall mean this Development Agreement.

“Applicable Law” shall have that meaning set forth in Section 8.03 of this Agreement.

“Business Park” shall have that meaning set forth in Section 3.01 of this Agreement.

“City Law” shall have that meaning set forth in Section 9.01 of this Agreement.

“Community Facilities District (CFD)” shall have that meaning set forth in Section 6.06 of this Agreement.

“Conveyed Property” shall have that meaning set forth in Section 3.01 of this Agreement.

“Deficiencies” shall have that meaning set forth in Section 12.02(a) of this Agreement.

“Development Agreement Statute” shall have that meaning set forth in Recital A of this Agreement.

“Disposition and Development Agreement (DDA)” shall have that meaning set forth in Recital F(4) of this Agreement.

“Effective Date” shall have that meaning set forth in Section 2.01 of this Agreement.

“Floor Area Ratio (FAR)” shall have that meaning set forth in Section 3.02 of this Agreement.

“Judgment” shall have that meaning set forth in Section 12.02(a) of this Agreement.

“Mitigation Monitoring and Reporting Program” or “MMRP” shall have that meaning set forth in Recital F(1) of this Agreement.

“Non-Assuming Transferee” shall have that meaning set forth in Section 11.03 of this Agreement.

“Notice of Compliance” shall have that meaning set forth in Section 11.04 of this Agreement.

“Periodic Review” shall have that meaning set forth in Section 13.03(a) of this Agreement.

“Precise Plan” shall have that meaning set forth in Section 3.04 of this Agreement.

“Project” shall have that meaning set forth in Recital D of this Agreement.

“Project Approvals” shall have that meaning set forth in Recital F of this Agreement.

“Project Site” shall have that meaning set forth in Recital C of this Agreement.

“Subsequent Approvals” shall have that meaning set forth in Section 3.04 of this Agreement.

“Term” shall have that meaning set forth in Section 2.02 of this Agreement.

“Transfer Agreement” shall have that meaning set forth in Section 11.02(a) of this Agreement.

“Transferee” shall have that meaning set forth in Section 11.01 of this Agreement.

## **ARTICLE 2. EFFECTIVE DATE AND TERM**

Section 2.01. Effective Date. This Agreement shall become effective upon the date the ordinance approving this Agreement is adopted by the City Council and this Agreement is fully executed by the parties (the “**Effective Date**”), subject to the provisions of Government Code, Section 65867.5(a). The Effective Date is that date set forth at the beginning of this Agreement

Section 2.02. Term. The term of this Agreement (the “**Term**”) shall commence upon the Effective Date and continue for a period of twenty (20) years.

## **ARTICLE 3. THE PROJECT AND PROJECT APPROVAL PROCESS**

Section 3.01. The Project Site. The Project Site comprises (1) the area commonly known as the Oyster Point Business Park (“**Business Park**”), and (2) certain property acquired from RDA pursuant to the DDA (the “**Conveyed Property**”).

The Project Site is described more particularly in Exhibit A and is depicted in Exhibit B.

Section 3.02. The Project. The Project consists of development of the improvements, amenities, and facilities described below as comprising the Phase I City (Phase IC) and Phases I, II, III, and IV Developer (Phases ID, IID, IIID, and IVD) Improvements. The Project will include construction of a total of up to 2,254,230 gross square feet of research and development and office buildings, predicated upon a Floor Area Ratio (“**FAR**”) calculation of 1.25. The FAR calculation takes into account certain areas (1) reserved for public amenities, including any private streets, beach, park, portion of the Bay Trail, or other rights of way, public open space, public parking area, or recreational area, and (2) available for potential future development.

Section 3.03. Project Phasing. The Project will be constructed in several phases, generally as set forth below. The improvements comprising each phase are identified and depicted in Exhibit C attached hereto. The Phase IC Improvements and Phase ID Improvements will be initiated prior to the Phases IID, IIID, and IVD Improvements.

- (a) Phase IC Improvements. The “**Phase IC Improvements**” consist of:
- (i) Streets and utilities (including grading, subgrade, base, paving, curb and sidewalk, street lights, storm water, sanitary sewer, combined trench for gas electric, and telecom, impermeable utility trench at sanitary landfill areas, and temporary streets and utilities) in the following locations:
    - a. At the future street “hub” area
    - b. Extending east from the hub across the Oyster Point Marina area
  - (ii) Repair of and/or upgrade to the clay cap covering the Oyster Point Landfill on specified City-owned parcels;
  - (iii) Reconfiguration and reconstruction of existing parking areas at specified City-owned parcels;
  - (iv) Grading and construction of open space recreation areas on specified City-owned parcels;
  - (v) Demolition and grading at the future “hotel site” on specified City-owned parcels; and
  - (vi) Landscaping of the beach/park area on the Conveyed Property;

- (vii) Landscaping and other improvements, including construction of portions of Bay Trail, public restrooms and palm promenade, on specified City-owned parcels;
  - (viii) Repair of the clay cap covering the Oyster Point Landfill on specified City-owned parcels and raising the level of certain portions of the Oyster Point Landfill and its perimeter to counteract the projected effects of sea level rise.
- (b) Phase ID Improvements. The “**Phase ID Improvements**” consist of:
- (i) Repair of the clay cap covering the Oyster Point Landfill on the Conveyed Property;
  - (ii) Remediation of the area identified as “Sump 1”;
  - (iii) Installation of methane control and monitoring systems on the Conveyed Property;
  - (iv) Relocation of refuse on the Conveyed Property to accommodate new buildings; and
  - (v) Development of buildings on the Conveyed Property with a minimum of 508,000 square feet for the uses specified in this Agreement and in the applicable precise plan.
- (c) Phases IID, IIID, and IVD Improvements. The “**Phase IID, IIID, and IVD Improvements**” consist of:
- (i) Development of streets and utilities (including grading, subgrade, base, paving, curb and sidewalk, street lights, storm water, sanitary sewer, combined trench for gas electric, and telecom, impermeable utility trench at sanitary landfill areas, and temporary streets and utilities) at the Business Park;
  - (ii) Relocation and expansion of capacity of Sewer Pump Station at 383 Oyster Point Boulevard;
  - (iii) Landscaping within the 100-foot shoreline band at the Business Park; and
  - (iv) Development of buildings within the Business Park area and part of the Conveyed Property so that the FAR across the entire Project Site will be 1.25, comprising a total of up to 2,254,230 gross square feet of development.

Section 3.04. Subsequent Approvals. In addition to the Project Approvals set forth in Recital F, certain other land use approvals, entitlements, and permits are necessary



or desirable for implementation of the Project (“**Subsequent Approvals**”). The Subsequent Approvals may include, without limitation, the following: separate final development plans for Phases IID, IIID, and IVD of the Project (each a “**Precise Plan**”), design review approvals, improvement agreements, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificates of occupancy, rezonings, permits, and any amendments to, or repealing of, any of the foregoing. All Subsequent Approvals shall be consistent with the terms of the Agreement and shall be exercised in a manner that supports the vested rights granted by the Agreement.

#### **ARTICLE 4. OBLIGATIONS OF DEVELOPER**

Section 4.01. Obligations of Developer Generally. The parties acknowledge and agree that the City’s agreement to perform and abide by its covenants and obligations set forth in this Agreement is a material consideration for Developer’s agreement to perform and abide by its long term covenants and obligations, as set forth herein, including performance of the applicable mitigation measures identified in the MMRP.

Section 4.02. City Fees.

- (a) Developer shall pay those processing, inspection and plan checking fees and charges required by the City for processing applications and requests for Subsequent Approvals under the applicable regulations in effect at the time such applications and requests are submitted to the City.
- (b) Consistent with the terms of the Agreement, including the provisions of Section 8.04, City shall have the right to impose only those development fees (the “**Development Fees**”) identified in Exhibit E-1, and limited to (i) those actually in effect at the time the Agreement is executed, at the rates in effect at the time the Development Fee is due including any lawfully imposed adjustments and escalators set forth in the applicable resolutions and ordinances, which are identified in Exhibit E-1, and (ii) those other generally applicable fees and exactions identified in Exhibit E-1, at a rate for each such fee or exaction no greater than the rate specified for such fee or exaction in Exhibit E-1. Development Fees shall be due upon issuance of building permits or certificates of occupancy for the Project in accordance with the ordinances imposing such fees, as may be appropriate, except as otherwise provided under the Agreement.

Section 4.03. Mitigation Measures. Developer and City shall comply with the MMRP approved in conjunction with the EIR for the Project, as it may be modified from time to time in accordance with the MMRP or other law.

Section 4.04. Additional Consideration. As consideration for its vested rights to develop the Project in accordance with this Agreement and the separately

executed DDA between Developer and the RDA, Developer has committed to make payments to the RDA as follows:

- (a) At the time the City/RDA conveys the Conveyed Property from City/RDA to Developer, and upon satisfaction of all requirements pursuant to the DDA for conveyance by City/RDA and payment by Developer, Developer will make a cash payment to RDA of two million two hundred fifty thousand dollars (\$2,250,000). In the event that at the time payment is due, the RDA is either not in existence or prohibited from collecting and utilizing past, current, or future tax increment revenue for redevelopment purposes, payment under this subsection (a) shall be made to the City.
- (b) At the time Developer commences construction of Phase IIID, which shall be defined as developer obtaining the first building permit for the first building within Phase IIID or IVD of the Project, Developer will make an additional cash payment to RDA of two million two hundred fifty thousand dollars (\$2,250,000). In the event that at the time payment is due, the RDA is either not in existence or prohibited from collecting and utilizing past, current, or future tax increment revenue for redevelopment purposes, payment under this subsection (b) shall be made to the City.

## **ARTICLE 5. OBLIGATIONS OF CITY**

Section 5.01. Obligations of City Generally. The parties acknowledge and agree that Developer's agreement to perform and abide by its covenants and obligations set forth in this Agreement, including Developer's decision to process the siting of the Project in the City, is a material consideration for City's agreement to perform and abide by the long term covenants and obligations of City, as set forth herein.

Section 5.02. Protection of Vested Rights. To the maximum extent permitted by law, City shall take any and all actions as may be necessary or appropriate to ensure that the vested rights provided by the Agreement can be enjoyed by Developer and to prevent any City Law, as defined below, from invalidating or prevailing over all or any part of the Agreement. City shall cooperate with Developer and shall undertake such actions as may be necessary to ensure the Agreement remains in full force and effect. City shall not support, adopt, or enact any City Law, or take any other action which would violate the express provisions or intent of the Agreement.

Section 5.03. Availability of Public Services. To the maximum extent permitted by law and consistent with its authority, City will assist Developer in obtaining capacity for sewer, water, and storm services as may be necessary to serve the Project. Developer agrees that it shall pay the then-effective fees for the services provided pursuant to this Section.

Section 5.04. Right to Rebuild. Developer may renovate or rebuild the Project or any part thereof within the Term of the Agreement should it become necessary due to

natural disaster, changes in seismic requirements, or should the buildings located within the Project become functionally outdated, within Developer's sole discretion, due to changes in technology. Any such renovation or rebuilding shall be subject to the square footage, height limitations and FAR vested by the Agreement, and shall comply with the Project Approvals, the building codes existing at the time of such rebuilding or reconstruction, and the requirements of CEQA.

## **ARTICLE 6. COOPERATION - IMPLEMENTATION**

Section 6.01. Processing Applications for Subsequent Approvals. The City will not use its discretionary authority in considering any application for a Subsequent Approval to change the policy decisions reflected by the Agreement or otherwise to prevent or delay development of the Project.

Section 6.02. Timely Submittals by Developer. Developer acknowledges that City cannot expedite processing Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use its best efforts to (i) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (ii) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other necessary required materials as set forth in the Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to timely process any and all Subsequent Approvals.

Section 6.03. Timely Processing by City. Upon submission by Developer of the application for any Subsequent Approval and processing fees, City shall promptly and diligently commence and complete all steps necessary to act on the application including, without limitation, (i) providing at Developer's expense, as requested by Developer or determined to be necessary by the Chief Planner, reasonable overtime staff assistance and/or staff consultants for planning and processing of the application; (ii) if legally required, providing notice and holding public hearings; and (iii) acting on the application. City shall ensure that adequate staff is available, and shall authorize overtime staff assistance as may be necessary, to timely process the application.

Section 6.04. Review of Subsequent Approvals. The City may deny an application for a Subsequent Approval only if such application does not comply with the Agreement or Applicable Law (as defined below) or with any state or federal law, regulations, plans, or policies as set forth in Section 9.03.

Section 6.05. Other Government Permits. The City shall cooperate with Developer in its efforts to obtain, as may be required, permits and approvals from other governmental or quasi-governmental entities and shall, from time to time at the request of Developer, use its best efforts to assist Developer and to ensure the timely processing of such permits and approvals.

Section 6.06. Community Facilities District.

- (a) Community Facilities District; Formation. Subject to subsection (f) below, upon the filing of a petition by Developer pursuant to Government Code Section 53318(c), the Parties shall cooperate in good faith to establish one or more Community Facilities Districts (“**CFD(s)**”) pursuant to the Mello-Roos Act (Government Code Section 53311 et seq.). The aggregate of the boundaries of the CFD(s) shall be coextensive with those of the areas subject to facilities assessment, identified in Exhibit H-1 and the areas defined as “Public CFD Property”, as identified in Exhibit H-2, unless the Parties otherwise agree. Upon the filing of a petition by Developer with regards to the capital facilities or the developer or city for the service obligations, the City Council shall consider adoption of a resolution of intention to establish the CFD(s) and, following adoption, City shall use good faith, diligent efforts, in compliance with Government Code Section 53318 et seq., to establish and implement the CFD(s) pursuant to the terms of this Agreement, including scheduling of necessary public hearings and adoption of a resolution of formation. City shall cause the CFD(s), upon formation, to become subject to and to comply with the provisions of this Agreement specifically applicable to the CFD(s). The City shall be responsible for conducting all proceedings for the establishment of the CFD(s), including the adoption of all resolutions, ordinances and orders and recording of maps, notices, releases and the conduct of all hearings, elections and other public meetings under the Mello-Roos Act to establish the CFD(s), levy the Special Taxes and, as appropriate, provide for issuance of the CFD Bonds. To the extent City has not already adopted policies required by Government Code Section 53312.7, City agrees to use its best efforts to adopt such policies within ninety (90) days following the Effective Date. Developer acknowledges and agrees that City’s policies may require, among other things, that the CFD proponent (in this case, Developer), provide a letter of credit or other credit enhancement instrument in form and amount reasonably satisfactory to City which is sufficient to ensure payment of the principal and interest payments on the CFD Bonds for up to two (2) years following issuance thereof (computed without regard to the availability of capitalized interest or amounts on deposit in a debt service reserve fund).
- (b) Public Benefit Facilities. Subject to caps on the total amount of net CFD Bond proceeds and the total tax and assessment rate set forth in subsections (d) and (e) below, the CFD(s) shall finance, to the extent such items are not financed from other sources at the election of Developer, the design and acquisition or construction of those off-site and on-site public facilities (identified in Exhibit G) necessary for development of the Project which may lawfully be financed under the Mello-Roos Act and other applicable law as set forth in the City’s resolution of formation (collectively, the “**Public Benefit Facilities**”). Financing of the Public Benefit Facilities with CFD Bonds shall be subject to approval of the City, based on the unqualified written opinion of a nationally-recognized bond counsel that

interest on the CFD Bonds will be federally tax exempt. The area that will be assessed for the Public Benefit Facilities is depicted on Exhibit H-1.

- (c) **Maintenance and Services Costs.** Subject to an annual cap of \$149,254, payable by Developer, and an annual cap of \$149,254 payable by City, each adjusted annually on January 1, commencing January 1, 2013, by the proportionate increase in the Producer Price Index—All Commodities as published by the Bureau of Labor Statistics of the U.S. Department of Labor, the CFD(s) shall finance maintenance and services (“Services”) within the Public CFD Property described in Exhibit H-2.
- (d) **Advance of Expenses; Reimbursement.** Developer shall advance to City the estimated out of pocket costs of formation of the CFD(s), sale of CFD Bonds, and other costs and expenses associated with the CFD(s) (“**Advanced Costs**”). Such Advanced Costs may include, without limitation, legal, financial, appraisal and engineering costs and expenses associated with (i) formation of the District; (ii) determination of the rate and method of apportionment and levy of the Special Tax; (iii) review and approval of the plans and specifications for construction of the Public Benefit Facilities; (iv) determination of the value of property; (v) sale of CFD Bonds; and (vi) any other costs or expenses reasonably incurred in connection with the CFD(s). All such Advanced Costs, together with those reasonable out-of-pocket legal, engineering and financial services costs incurred by Developer directly related to establishment and implementation of the CFD(s) which have been approved by the Community Development Director or his or her designee in his or her reasonable discretion and which may lawfully be financed under the Mello-Roos Act and other applicable law, shall be reimbursed to Developer from proceeds of the sale of CFD Bonds.
- (e) **Issuance of CFD Bonds.** Upon successful formation of a CFD and approval of the Special Tax, and subject to the restrictions in this subsection (d) and in subsection (e) below, bonds shall be issued (“**CFD Bonds**”), the proceeds of which shall be used to finance the Public Benefit Facilities, to the extent the Public Benefit Facilities legally and feasibly may be financed utilizing this method of financing. The amounts, timing and terms of the issuance and sale of the CFD Bonds shall be determined by the City, in consultation with the Developer and the City’s bond counsel, financial advisors and/or underwriters. Subject to the state of development of the Project and prevailing bond market conditions, the timing of the sale of the CFD Bonds shall be coordinated, as closely as possible, with the phasing of the development of the Project to provide financing for the Public Benefit Facilities in a timely fashion to meet the needs of the respective phases of development of the Project. If necessary, the CFD Bonds may be issued in series to help correspond to such phases. Developer agrees to assist the City in the issuance of the CFD Bonds by providing financial and development information reasonably required for due-diligence and disclosures relating to

the issuance of the CFD Bonds and to provide for any required continuing disclosures under applicable securities laws.

- (f) Special Tax. The CFD(s) shall be authorized to levy, and Developer shall approve (by affirmative vote or other legally acceptable method), a tax or taxes (“**Special Tax**”) in accordance with the rate and method of apportionment of the Special Taxes approved in the completed proceedings for the applicable CFD. The Special Taxes shall be determined and collected annually by the City against all taxable parcels as defined by the rate and method of apportionment of the Special Taxes for the applicable CFD. The Special Taxes shall be collected in the same manner and at the same time as ad valorem property taxes, unless some other method of collection is specified by the City. The Special Taxes shall be set at an amount sufficient to pay the estimated annual principal of and interest on the CFD Bonds, together with required debt service coverage requirements and the annual costs of calculation, collection and disbursement of the Special Taxes and the annual administration, engineering, and inspection costs associated with the applicable CFD; provided, however, the Special Taxes so set shall be in an amount such that, at the time the rate and method of apportionment of the Special Taxes is approved, the estimated total annual taxes and assessments to be levied on each taxable parcel within any CFD district shall not exceed 1.75% of the parcel’s projected assessed valuation based on a reasonable estimate of the value of the parcel and the improvements to be constructed thereon. The rate and method of apportionment shall be drafted to allow a property owner to permanently satisfy the Special Tax (and remove the lien thereof) as to any taxable parcel by prepayment pursuant to Section 53344 of the Mello-Roos Act and pursuant to prepayment conditions adopted by the City pursuant to Section 53321.
- (g) City’s Reservation of Discretion. It is expressly acknowledged, understood and agreed by the Parties that (i) City reserves full and complete discretion with respect to legally required findings that must be made in connection with formation of the CFD(s); (ii) nothing in this Agreement is intended to or shall limit City’s ability to adopt legally required findings with respect to formation of the CFD(s); and (iii) nothing in this Agreement is intended to or shall prejudice or commit to City regarding the findings and determinations to be made with respect thereto.
- (h) Costs If No CFD Formed. In the event that City is unable to make the legally required findings in connection with the formation of a CFD and the issuance of CFD Bonds for any reason, City shall not be liable for any resulting costs to Developer and Developer shall have the right to terminate this Agreement by written notice to City given within thirty (30) days following the date City is unable or elects not to proceed with such formation of the CFD and issuance of CFD Bonds. If Developer opts not to

terminate this Agreement then Developer shall nonetheless be responsible for constructing all of the Public Benefit Facilities at its expense.

- (i) Developer's Cooperation. In connection with the establishment and implementation of the CFD(s), Developer (i) will execute all necessary petitions and ballots and waive all election waiting and protest periods at City's request and prior to the issuance of any building permit on any phase of the Project; (ii) support City's adoption of local policies related to use of CFD financing, which may include a requirement that the CFD proponent provide, at its expense, a letter of credit or other credit enhancement instrument sufficient to ensure repayment of the principal and interest payments on the CFD Bonds for up to two (2) years following issuance thereof, as reasonably determined by City; (iii) cooperate in the development of rate and method of apportionment or assessment formula; and (iv) allow special tax liens to encumber Phases ID, IID, IIID, and IVD of the Project in order to accomplish the required construction projects.
- (j) Developer's Consent. Developer irrevocably consents to the formation of the CFD(s), the issuance of the CFD Bonds, the imposition of the Special Taxes against the Project Site at rates and pursuant to a method of apportionment appropriate to fund the debt service on the CFD Bonds sold to finance the Public Benefit Facilities, and agrees not to protest or object to, and to vote in favor of, formation of the CFD(s) or levy of appropriate Special Taxes consistent herewith. Developer has agreed to the financing provisions set forth in this Section 6.06 and to perform the obligations hereunder in exchange for the consideration and benefits provided to Developer by City under this Agreement, including the vested right to develop the Project. Developer acknowledges and agrees that CFD Bonds shall not be issued to fund any on-site public improvements or any other infrastructure or fees other than the Public Benefit Facilities.
- (k) Limited Liability of City. Notwithstanding any other provision of this Agreement, City shall not be liable for or obligated to pay any costs or expenses in connection with the CFD(s) or the Public Benefit Facilities except to the extent monies are available (from Advanced Costs, proceeds of CFD Bonds, or Special Taxes) and specifically authorized by law for payment of such costs or expenses.

## **ARTICLE 7. PRECISE PLANS**

Section 7.01. Developer shall submit to City, for approval by the Planning Commission, separate Precise Plans for each phase of the Project. Each Precise Plan shall be consistent with the General Plan, Specific Plan, and Redevelopment Plan, and shall include all required Precise Plan application contents as set forth in the Specific Plan, including without limitation, elevations and site plans showing (i) size and location of buildings, infrastructure, and improvements; (ii) specific

location and treatment of landscape amenities; and (iii) grading and drainage plans for the area included within the specific Precise Plan, as necessary.

Section 7.02. The Phase I Precise Plan in the form approved by the City Council is attached to this Agreement as Exhibit D. Upon approval by the City, each subsequent Precise Plan shall be incorporated automatically into the DA as a part of Exhibit D.

Section 7.03. Any subsequent material change, modification, revision or alteration of any approved Precise Plan shall be submitted for approval according to the procedures established in the Specific Plan. Any proposed material change, modification, revision or alteration shall be approved or disapproved by the Planning Commission within seventy-five (75) calendar days of submittal of a complete Precise Plan Application, including, but not limited to, any required CEQA analysis and documents. If the City refuses or fails to approve or disapprove the revision, modification or alteration to the Precise Plan within said seventy-five (75) calendar day period, the City shall, within ninety (90) calendar days after receipt of such submittal, provide the Developer with a written statement of the reasons the City refused or failed to approve such submittal. If the City fails to approve or deny the amended Precise Plan and to provide the Developer with the written statement described above, Developer shall have the right to attempt to compel City action on the requested approval through the filing of a writ of mandate.

## **ARTICLE 8. STANDARDS, LAWS AND PROCEDURES GOVERNING THE PROJECT**

Section 8.01. Vested Right to Develop. Developer shall have a vested right to develop the Project on the Project Site in accordance with the terms and conditions of this Agreement and Applicable Law. Nothing in this section shall be deemed to eliminate or diminish the requirement of Developer to obtain any required Subsequent Approvals.

Section 8.02. Permitted Uses Vested by This Agreement. The permitted uses of the Project Site; the density and intensity of use of the Project Site; the maximum height, bulk and size of proposed buildings; provisions for reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in limitation of any right to develop as set forth in the Project Approvals), the Subsequent Approvals. Permitted uses of the Project Site shall include, without limitation, research and development, office, business services, and employee-serving amenities such as personal service establishments, eating and drinking establishments, childcare, and physical fitness facilities.



Section 8.03. Applicable Law. The rules, regulations, official policies, standards and specifications applicable to the Project (the “**Applicable Law**”) shall be those set forth in this Agreement, the Project Approvals, and the Subsequent Approvals, and, with respect to matters not addressed by this Agreement, the Project Approvals, or the Subsequent Approvals, those rules, regulations, official policies, standards and specifications (including the General Plan and City ordinances and resolutions) governing permitted uses, building locations, timing of construction, densities, design, and heights, and the fees, assessments, exactions, and taxes in force and effect on the Effective Date of this Agreement, or as specified in Exhibit E-1.

Section 8.04. Fees.

- (a) Existing Fees. The Parties understand and agree that as of the Effective Date the fees, taxes, exactions, and assessments listed in Exhibit E-1 are the only City fees, taxes, exactions, and assessments. Except for those proposed fees, exactions or assessments set forth in Exhibit E-1, City is unaware of any pending efforts to initiate, or consider applications for new or increased fees, taxes, exactions, or assessments covering the Project Site, or any portion thereof. This shall not prohibit City from imposing on Developer any fee or obligation that is imposed by a regional agency in accordance with state or federal obligations and required to be implemented by City. Developer and City are each responsible for paying its respective allocable share of existing, new or increased fees and exactions lawfully imposed on the Project by other public agencies.
- (b) Future Fees. City understands that long term assurances by City concerning fees, taxes and assessments were a material consideration for Developer agreeing to process the siting of the Project in its present location and to pay long term fees, taxes and assessments described in this Agreement. City shall retain the ability to initiate or process applications for the formation of new assessment districts covering all or any portion of the Project Site. Notwithstanding the foregoing, and except as provided in Section 6.06, Developer retains all its rights to oppose the formation or proposed assessment of any new assessment district or increased assessment. In the event an assessment district is lawfully formed to provide funding for services, improvements, maintenance or facilities which are substantially the same as those services, improvements, maintenance or facilities being funded by the fees or assessments to be paid by Developer under the Project Approvals or this Agreement, such fees or assessments to be paid by Developer shall be subject to reduction/credit in an amount equal to Developer’s new or increased assessment under the assessment district. Alternatively, the new assessment district shall reduce/credit Developer’s new assessment in an amount equal to such fees or assessments to be paid by Developer under the Project Approvals or this Agreement.

- (c) Fees Requested by Outside Agencies. The City agrees to exclude Developer from any and all collection agreements regarding fees, including, but not limited to, development impact fees, which other public agencies request the City to impose at City's discretion on the Project or the Project Site after the Effective Date through the Term of this Agreement. The City will not withhold any action, approval or authorization for the Project at the request of any other public agency unless required to do so by law.
- (d) Fee Reductions or Credits. Developer shall not be required to pay two times for the cost which is covered by any exaction, fee or assessment. Accordingly, the fees described in Section 8.04 shall be subject to reductions/credits in an amount equal to Developer's actual cost of complying with any lawfully imposed exaction, tax, or assessment generally which is established to produce funds to pay for similar uses or purposes, whether imposed on the Project, the Project Site, the Project Approvals or the Subsequent Approvals. Notwithstanding the foregoing, no such reduction/credit shall be provided as a result of any assessment that arises from an assessment district requested by Developer under Section 6.06.

Section 8.05. No Public Procurement Process. Nothing in this Agreement, including any related agreements for financing of infrastructure or public amenities, shall require Developer to follow any statutory provisions, regulations, rules, or procedures applicable to City and/or RDA with respect to bidding for public procurement or contracting; nor shall City attempt to impose any such requirement on Developer or its tenants by way of ordinance or condition of approval.

Section 8.06. Uniform Codes. City may apply to the Project, at any time during the Term, then current California Building Standards Code and other uniform construction codes, including any lawful local modifications and amendments, and City's then current design and construction standards for road and storm drain facilities, provided any such uniform code or standard has been adopted and uniformly applied by City on a citywide basis and provided that no such code or standard is adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

Section 8.07. Environmental Mitigation. The parties understand that the EIR was intended to be used in connection with each of the Project Approvals and Subsequent Approvals needed for the Project. Consistent with the CEQA policies and requirements applicable to the EIR, City agrees to use the EIR in connection with the processing of any Subsequent Approval to the maximum extent allowed by law and not to impose on the Project any mitigation measures except those specifically imposed by the Project Approvals and the MMRP, or as required pursuant to CEQA, based on any required additional CEQA analysis, or specifically required by Applicable Law.

Section 8.08. Life of Development Approvals. The term of any approval, permit, or other land use entitlement approved as (i) a Project Approval, and in effect as of the Effective Date of this Agreement, or (ii) Subsequent Approval, shall automatically be extended for the longer of the duration of the Agreement (including any extensions) or the term otherwise applicable to such Project Approval or Subsequent Approval if the Agreement is no longer in effect.

Section 8.09. Timing of Project Construction and Completion.

- (a) Project Phasing. The Project will be built in several phases during the Term of the Agreement, as described more fully in Section 3.03 above.
- (b) Notwithstanding any provision of this Agreement or any other Applicable Law, City and Developer expressly agree that there is no requirement that Developer initiate or complete development of the Project or any particular phase of the Project within any particular period of time, and City shall not impose such a requirement on any Project Approval. The parties acknowledge that Developer cannot at this time predict when or the rate at which phases will be developed, or, following initiation of Phase I, the order in which phases will be developed. Notwithstanding any provision of this Agreement, Developer shall commence and complete the Phase IC and Phase ID improvements prior to commencement of construction of any Phase II improvements; and shall complete construction of the 30,000 square feet of shell space for amenities, as described in the Transportation Demand Management Plan, prior to the earlier of (i) issuance of a building permit for any building in the final phase of construction, or (ii) completion of 1,800,000 square feet of development. Such decisions depend upon numerous factors which are not within the control of Developer, such as market orientation and demand, interest rates, competition and other similar factors.
- (c) In light of the foregoing and except as set forth in subsection (d) below, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, and, following initiation and completion of Phase I, Developer shall determine which parts of the Project Site to develop at what time, and in what sequence. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' desire to avoid that result by acknowledging that, assuming Developer has obtained all required approvals, Developer shall have the right to develop the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment.

- (d) Nothing in this Agreement shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.

## **ARTICLE 9. CHANGES IN LAW**

Section 9.01. No Conflicting Enactments. City shall not impose on the Project (whether by action of the City Council or Planning Commission, or by initiative, referendum or other means) any ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each individually, a “**City Law**”) that is in conflict with Applicable Law or this Agreement or that reduces the development rights or assurances provided by this Agreement. Without limiting the generality of the foregoing, any City Law shall be deemed to conflict with Applicable Law or this Agreement or reduce the development rights provided hereby if it would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which applies to or affects the Project:

- (a) Change any land use designation or permitted use of the Project Site;
- (b) Limit or control the availability of public utilities, services or facilities or any privileges or rights to public utilities, services, or facilities (for example, water rights, water connections or sewage capacity rights, sewer connections, etc.) for the Project (except when necessary pursuant to Section 9.03);
- (c) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations included in the Project Approvals or Subsequent Approvals (as and when they are issued);
- (d) Limit or control the rate, timing, phasing or sequencing of the Project as set forth in this Agreement;
- (e) Apply to the Project any City Law otherwise allowed by this Agreement that is not uniformly applied on a City-wide basis to all substantially similar types of development projects and project sites;
- (f) Result in Developer having to substantially delay construction of the Project or require the issuance of additional permits or approvals by the City other than those required by Applicable Law;
- (g) Limit the processing or procuring of applications and approvals of Project Approvals;
- (h) Establish, enact, increase, or impose against the Project or Project Site any fees, taxes (including without limitation general, special, and excise taxes), assessments, liens or other monetary obligations other than those specifically

permitted by this Agreement and referred to in Exhibit E-1 or other connection fees required by third party utilities; or

- (i) Substantially increase the cost of constructing or developing the Project or any portion thereof.

Section 9.02. Initiatives and Referenda.

- (a) If any City Law is enacted or imposed by initiative or referendum, or by the City Council directly or indirectly in connection with any proposed initiative or referendum, which City Law would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement, such Law shall not apply to the Project.
- (b) Without limiting the generality of any of the foregoing, no moratorium or other limitation (whether relating to the rate, timing, phasing or sequencing of development) affecting subdivision maps, building permits or other entitlements to use that are approved or to be approved, issued or granted within the City, or portions of the City, shall apply to the Project.
- (c) To the maximum extent permitted by law, City shall prevent any City Law from invalidating or prevailing over all or any part of this Agreement, and City shall cooperate with Developer and shall undertake such actions as may be necessary to ensure this Agreement remains in full force and effect.
- (d) Developer reserves the right to challenge in court any City Law that would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement.

Section 9.03. State and Federal Law. As provided in California Government Code Section 65869.5, the Agreement shall not preclude the application to the Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations.

**ARTICLE 10. AMENDMENT**

Section 10.01. Amendments to Project Approvals and Subsequent Approvals

Excluding this Agreement. To the extent permitted by state and federal law, any Project Approval or Subsequent Approval may, from time to time, be amended or modified in the following manner:

- (a) Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the Chief Planner or his/her designee shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is consistent with this Agreement and Applicable Law. If the

Chief Planner or his/her designee finds that the proposed amendment or modification is minor, consistent with this Agreement and Applicable Law, and will result in no new significant impacts not addressed and mitigated in the EIR and MMRP, the amendment shall be determined to be an “**Administrative Project Amendment**” and the Chief Planner or his/her designee may, except to the extent otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, changes in trail alignments, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments. Notwithstanding the foregoing, the Chief Planner shall have sole discretion to refer a request for any amendment or modification that has generated substantial public controversy or involves significant changes in land use planning to the Planning Commission for review and action.

- (b) Non-Administrative Project Amendments. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

Section 10.02. Amendment of This Agreement. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, as follows:

- (a) Administrative Agreement Amendments. Any amendment to this Agreement which does not substantially affect (i) the Term of this Agreement; (ii) permitted uses of the Project Site; (iii) provisions for the reservation or dedication of land; (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions; (v) the density or intensity of use of the Project Site or the maximum height or size of proposed buildings; or (vi) monetary contributions by Developer, shall be deemed an “**Administrative Agreement Amendment**” and shall not, except to the extent otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. Such amendment may be approved by City resolution.
- (b) Other Amendment. Any amendment to this Agreement other than an Administrative Agreement Amendment shall be subject to approval by the

Planning Commission (by advisory resolution) and City Council (by ordinance) following duly noticed public hearing before the Planning Commission and City Council, consistent with Government Code Sections 65867 and 65867.5.

- (c) Amendment Exemptions. No Subsequent Approval, or amendment of a Project Approval or Subsequent Approval, shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Project and vested under this Agreement.

## **ARTICLE 11. ASSIGNMENT, TRANSFER AND NOTICE**

Section 11.01. Assignment and Transfer. Subject to this Article 11, and Applicable Law, Developer may transfer or assign all or any portion of its interests, rights or obligations under the Agreement, the Project Approvals, or Subsequent Approvals to third parties acquiring an interest or estate in the Project or any portion thereof including, without limitation, purchasers or lessees of lots, parcels or facilities (each a “**Transferee**”). An Assignment and Assumption of Rights and Obligations form is attached as Exhibit F.

### Section 11.02. Transfer Agreements.

- (a) In connection with the transfer or assignment by Developer of all or any portion of the Project (other than a transfer or assignment by Developer to an affiliated party or mortgagee, or a Non-Assuming Transferee (as defined in Section 11.03), Developer and the Transferee shall enter into a written agreement regarding the respective interests, rights and obligations of Developer and the transferee in and under the Agreement, the Project Approvals, and the Subsequent Approvals (a “**Transfer Agreement**”). Such Transfer Agreement shall include an executed Assignment and Assumption of Rights and Obligations, as set forth in Exhibit F, and may (i) release Developer from obligations under the Agreement, the Project Approvals, or the Subsequent Approvals that pertain to that portion of the Project being transferred, as described in the Transfer Agreement, provided that the Transferee expressly assumes such obligations; (ii) transfer to the Transferee vested rights to improve that portion of the Project being transferred; and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the transfer or assignment.
- (b) Developer shall seek City’s prior written consent to any Transfer Agreement, which consent shall not be unreasonably withheld or delayed. Failure by City to respond within forty-five (45) days to any request made by Developer for such consent shall be deemed to be City’s approval of the Transfer Agreement in question. At the time Developer requests City’s written consent, Developer shall submit to the City information describing Transferee’s development experience and financial resources. City may refuse to give its consent only if, in light of the proposed Transferee’s

reputation and financial resources, such Transferee would not in City's reasonable opinion be able to perform the obligations proposed to be assumed by such transferee. Such determination shall be made by the City Manager and is appealable by Developer to the City Council.

- (c) Any Transfer Agreement shall be binding on Developer, City and the Transferee. Once approved by the Developer, the Transferee and the City and then upon recordation of any Transfer Agreement in the Official Records of San Mateo County, Developer shall automatically be released from those obligations assumed by the transferee therein.
- (d) Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a Transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.

Section 11.03. Non-Assuming Transferees. Except as otherwise required by Developer in Developer's sole discretion, the burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor City's consent shall be required in connection with the transfer of any property that has been established as one or more separate legal parcels for uses permitted under this Agreement. The transferee in such a transaction and its successors ("**Non-Assuming Transferees**") shall be deemed to have no obligations under this Agreement, but shall continue to benefit from the vested rights provided by this Agreement for the duration of the Term. Nothing in this section shall exempt any property transferred to a Non-Assuming Transferee from payment of applicable fees and assessments or compliance with Applicable Law.

Section 11.04. Notice of Compliance Generally. Within forty-five (45) days following any written request which Developer may make from time to time, City shall execute and deliver to Developer (or to any party requested by Developer) a written "Notice of Compliance," in recordable form, duly executed and acknowledged by City, that certifies:

- (a) This Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications;
- (b) There are no current uncured defaults under this Agreement or specifying the dates and nature of any such default; and
- (c) Any other information reasonably requested by Developer. The failure to deliver such a statement within such time shall constitute a conclusive



presumption against City that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer's sole discretion, to record the Notice of Compliance.

## **ARTICLE 12. COOPERATION IN THE EVENT OF LEGAL CHALLENGE**

### Section 12.01. Cooperation.

- (a) In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to the Agreement challenging the validity of any provision of the Agreement or any Project Approval or Subsequent Approval, the parties shall cooperate in defending such action or proceeding. City shall promptly notify Developer of any such action against City and/or RDA. If City fails promptly to notify Developer of any legal action against City or if City fails to cooperate in the defense, Developer shall not thereafter be responsible for City's defense. The Parties shall use best efforts to select mutually agreeable legal counsel to defend such action, and Developer shall pay compensation for such legal counsel (including City Attorney time and overhead for the defense of such action), but shall exclude other City staff overhead costs and normal day-to-day business expenses incurred by City. Developer's obligation to pay for legal counsel shall extend to fees incurred on appeal. In the event City and Developer are unable to select mutually agreeable legal counsel to defend such action or proceeding, each party may select its own legal counsel and Developer shall pay its and the City's legal fees and costs.
- (b) The parties agree that this Section 12.01 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification or setting aside.

### Section 12.02. Cure; Reapproval.

- (a) If, as a result of any administrative, legal, or equitable action or other proceeding, all or any portion of the Agreement or the Project Approvals or Subsequent Approvals are set aside or otherwise made ineffective by any judgment in such action or proceeding ("**Judgment**"), based on procedural, substantive or other deficiencies ("**Deficiencies**"), the parties agree to use their respective best efforts to sustain and reenact or readopt the Agreement, and/or the Project Approvals, that the Deficiencies related to, unless the Parties mutually agree in writing to act otherwise:

- (i) If any Judgment requires reconsideration or consideration by City of this Agreement, Project Approval, or Subsequent Approval, then the City shall consider or reconsider that matter in a manner consistent with the intent of this Agreement and with Applicable Law. If any such Judgment invalidates or otherwise makes ineffective all or any portion of this Agreement, Project Approval, or Subsequent Approval, then the Parties shall cooperate and shall cure any Deficiencies identified in the Judgment or upon which the Judgment is based in a manner consistent with the intent of this Agreement and with Applicable Law. City shall then consider readopting or reenacting this Agreement, or the Project Approval, Subsequent Approval, or any portion thereof, to which the Deficiencies related.
  - (ii) Acting in a manner consistent with the intent of this Agreement includes, but is not limited to, recognizing that the Parties intend that Developer may develop the Project as described herein, and adopting such ordinances, resolutions, and other enactments as are necessary to readopt or reenact all or any portion of this Agreement, Project Approvals, and/or Subsequent Approvals without contravening the Judgment.
- (b) The parties agree that this Section 12.02 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification or setting aside.

### **ARTICLE 13. DEFAULT; REMEDIES; TERMINATION**

Section 13.01. Defaults. Any failure by either party to perform any term or provision of the Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (unless such period is extended by mutual written consent), shall constitute a default under the Agreement. Any notice given shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of a default under the Agreement, the non-defaulting party may institute legal proceedings to enforce the terms of the Agreement or, in the event of a material default, terminate the Agreement. If the default is cured, then no default shall exist and the noticing party shall take no further action.

Section 13.02. Termination. If City elects to consider terminating the Agreement due to a material default of Developer, then City shall give a notice of intent to

terminate the Agreement and the matter shall be scheduled for consideration and review by the City Council at a duly noticed and conducted public hearing. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the City Council determines that a material default has occurred and is continuing, and elects to terminate the Agreement, City shall give written notice of termination of the Agreement to Developer by certified mail and the Agreement shall thereby be terminated sixty (60) days thereafter; provided, however, that if Developer files an action to challenge City's termination of the Agreement within such 60-day period, then the Agreement shall remain in full force and effect until a trial court has affirmed City's termination of the Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired); provided, however, that the time period during which the Agreement shall remain in effect shall not exceed three (3) years.

Section 13.03. Periodic Review.

- (a) Conducting the Periodic Review. Throughout the Term of the Agreement, at least once every twelve (12) months following the execution of the Agreement, City shall review the extent of good-faith compliance by Developer with the terms of the Agreement (“**Periodic Review**”).
- (b) Notice. At least five (5) calendar days prior to the Periodic Review, and in the manner prescribed in Section 14.09 of this Agreement, City shall make available to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer's performance hereunder. Developer shall be permitted an opportunity to respond to City's evaluation of Developer's performance, either orally at a public hearing or in a written statement, at Developer's election. Such response shall be made to the Chief Planner.
- (c) Good Faith Compliance. During the Periodic Review, the Chief Planner shall review Developer's good-faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the Chief Planner shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of the Chief Planner shall be appealable to the City Council. If the Chief Planner finds and determines that Developer has not complied with such terms and conditions, the Chief Planner may recommend to the City Council that it terminate or modify this Agreement by giving notice of its intention to do so, in the manner set forth in California Government Code Sections 65867 and 65868.
- (d) Failure to Properly Conduct Periodic Review. If City fails, during any calendar year, to either (i) conduct the Periodic Review, or (ii) notify Developer in writing of City's determination, pursuant to a Periodic Review, as to Developer's compliance with the terms of the Agreement and such

failure remains uncured as of December 31 of any year during the Term of the Agreement, such failure shall be conclusively deemed an approval by City of Developer's compliance with the terms of the Agreement.

- (e) Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, City shall, within thirty (30) days following request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City. Developer shall have the right, in Developer's sole discretion, to record such notice of compliance.
- (f) Finality of Determination. Any decision of the Chief Planner which is not appealed to the City Council as to Developer's compliance shall be final. Any Court action or proceeding to attack, review, set aside, void or annul any final decision of the City under its Periodic Review shall be commenced within thirty (30) days of the final decision by the City Council.
- (g) Costs. Costs reasonably incurred by the City in connection with the Periodic Review and related hearings shall be paid by Developer in accordance with the City's schedule of fees and billing rates for staff time in effect at the time of review.
- (h) Effect on Transferees. If Developer has effected a transfer so that its interest in the Project Site has been divided between Transferee(s) in accordance with Section 11.01 above, then the Periodic Review hereunder shall be conducted separately with respect to each party, and the Chief Planner, and if appealed, the City Council shall make its determinations and take its actions separately with respect to each party. If the Chief Planner or City Council terminates, modifies or takes such other actions in connection with a determination that such party has not complied with the terms and conditions of this Agreement, such action by the Chief Planner, or the City Council shall be effective only as to the party to whom the determination is made and the portions of the Project Site in which such party has an interest.
- (i) The rights and powers of the City Council under this Section 13.03 are in addition to, and shall not limit, the rights of the City to terminate or take other action under this Agreement on account of the commission by Developer of an event of Default

Section 13.04. Default by City or Developer. In the event City or Developer defaults under the terms of this Agreement, City or Developer shall have the rights and remedies provided in Section 13.06.

Section 13.05. Enforced Delay; Extension of Time of Performance. In addition to specific provisions of the Agreement, neither party shall be deemed to be in default where delays in performance or failures to perform are due to, and a

necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting state or federal laws or regulations, judicial decisions, or similar basis for excused performance which is not within the reasonable control of the party to be excused. Litigation attacking the validity of the Agreement or any of the Project Approvals, or any of the Subsequent Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project pursuant to the Agreement shall be deemed to create an excusable delay as to Developer. Upon the request of either party hereto, an extension of time for the performance of any obligation whose performance has been so prevented or delayed will be memorialized in writing. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon.

Section 13.06. Legal Action. Either party may institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, and enforce by specific performance the obligations and rights of the parties hereto. The sole and exclusive remedy for any default or violation of this Agreement shall be specific performance. In any proceeding brought pursuant to this Section 13.06 to enforce this Agreement, the prevailing party shall be entitled to recover from the unsuccessful party all costs, expenses and reasonable attorney's fees incurred by the prevailing party in the enforcement proceeding.

Section 13.07. California Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of San Mateo County, California.

Section 13.08. Resolution of Disputes. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at City's request, meet with City. The parties to any such meetings shall attempt in good faith to resolve any such disputes. Nothing in this Section 13.08 shall in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to by the parties to such meetings.

Section 13.09. Attorneys' Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and any other costs incurred in that proceeding in addition to any other relief to which it is entitled.

Section 13.10. Hold Harmless. Developer shall indemnify, defend (subject to the provisions of Article 12) and hold harmless City, Redevelopment Agency, any City agencies and their respective elected and appointed councils, boards, commissions, officers, agents, employees, volunteers and representatives (collectively herein, "City") from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) and from any and all claims, demands and actions in law or equity (including attorneys' fees and litigation expenses) by any person or entity, directly or indirectly arising or alleged to have arisen out of or in any way related to (1) this Agreement, the Project Approvals or Subsequent Approvals; (2) the construction of the Project, or of operations performed under this Agreement ; and (3) any actions or inactions by the Developer or its contractors, subcontractors, agents, or employees in connection with the construction or improvement of the Project Site and the Project, including off-site public improvements, except as solely arising out of the gross negligence or willful misconduct of City, its contractors, subcontractors, agents or employees. The indemnity under this Section shall survive expiration, termination or cancellation of this Agreement and shall be independent of other indemnity agreements.

#### **ARTICLE 14. MISCELLANEOUS**

Section 14.01. Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

Section 14.02. No Agency, Joint Venture or Partnership. It is specifically understood and agreed to by and between the parties hereto that: (i) the subject development is a private development; (ii) City has no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals or Subsequent Approvals; (iii) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Project Approvals, Subsequent Approvals, and Applicable Law; and (iv) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer. Neither Developer nor any of Developer's agents or contractors are or shall be considered to be agents of the City in connection with the performance of Developer's obligations under this Agreement.

Section 14.03. Enforceability. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any

other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by City that changes, alters or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code Section 65866.

Section 14.04. Other Necessary Acts. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

Section 14.05. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. Notwithstanding the foregoing, if any provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, and such provision deprives a party hereto of an essential benefit of its bargain hereunder, then such party so deprived shall have the option to terminate this Agreement by providing written notice of such termination to the other party.

Section 14.06. Construction. Each reference in this Agreement to this Agreement or any of the Project Approvals or Subsequent Approvals shall be deemed to refer to the Agreement, Project Approval or Subsequent Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, or conditions of this Agreement. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

Section 14.07. Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive; and “days” means calendar days unless specifically provided otherwise. If there is more than one signer of this Agreement, the signer obligations are joint and several.

Section 14.08. Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Project Site, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this

Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Project Site and is binding upon the owner of all or a portion of the Project Site and each successive owner during its ownership of such property.

Section 14.09. Notices. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by telefacsimile (with original forwarded by regular U.S. Mail) by registered or certified mail (return receipt requested), or by Federal or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to City, to: City Manager  
City of South San Francisco  
400 Grand Avenue  
South San Francisco, CA 94080  
Phone: (650) 829-6629  
Fax: (650) 829-6623

With a Copy to: Meyers Nave  
575 Market Street, Suite 2600  
San Francisco, CA 94105  
Attn: Steven T. Mattas, City Attorney  
Phone: (415) 421-3711  
Fax: (415) 421-3767



If to Developer, to: SRI Nine Oyster Point LLC  
235 Montgomery Street, 16th Floor  
San Francisco, CA 94104  
Attn: Todd Sklar  
Phone: (415) 772-7069  
Fax: (415) 772-7148

With Copies to: Oyster Point Ventures LLC  
601 California Street, Suite 1310  
San Francisco, CA 94108  
Attn: Dan Kingsley  
Phone: (415) 421-8200  
Fax: (415) 421-8201

Morrison & Foerster LLP  
425 Market Street  
San Francisco, CA 94105  
Attn: Zane Gresham  
Phone: (415) 268-7000  
Fax: (415) 260-7522

Section 14.10. Entire Agreement, Counterparts and Exhibits. This Agreement is executed in two (2) duplicate counterparts, each of which is deemed to be an original. This Agreement consists of 33 pages and ten exhibits which constitute in full, the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and the Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

- (a) Exhibit A: Legal Description of Project Site
- (b) Exhibit B: Diagram of Project Site
- (c) Exhibit C: Phase I, II, III, and IV Improvements
- (d) Exhibit D: Phase I Precise Plan
- (e) Exhibit E-1: Applicable Law
- (f) Exhibit E-2: Illustrative Fee Table
- (g) Exhibit F: Assignment and Assumption of Rights and Obligations Form
- (h) Exhibit G: Public Benefit Facilities

- (i) Exhibit H-1: Areas Subject to Facilities Assessment
- (j) Exhibit H-2: Public CFD Property

Section 14.11. Recordation of Development Agreement. Pursuant to California Government Code Section 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of San Mateo.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and City as of the day and year first above written.

**SIGNATURES ON NEXT PAGE**

**CITY**

**CITY OF SOUTH SAN FRANCISCO,  
a municipal corporation**

By: 

Name: BARRY M. NAGEL  
City Manager

ATTEST:

By:   
City Clerk

APPROVED AS TO FORM:

By:   
City Attorney

**DEVELOPER**

**OYSTER POINT VENTURES LLC,  
a Delaware limited liability company**

By: SRI Nine Oyster Point LLC,  
a Delaware limited liability company,  
its Managing Member

By: 

Name: Todd Sklar

Its: vice president

By: SKS Oyster Point, LLC,  
a Delaware limited liability company,  
its Member

By: 

Name: DANIEL KINGSLEY

Its: MEMBER

1614805.1

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Mateo

On March 23, 2011 before me, Rebecca C. Ong, Notary Public,  
Date Here Insert Name and Title of the Officer

personally appeared Barry Nagel  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rebecca C. Ong  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Mateo

On March 23, 2011 before me, Rebecca C. Ong, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Todd Sklar  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rebecca C. Ong  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: \_\_\_\_\_

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Mateo }

On March 23, 2011 before me, Rebecca C. Ong, Notary Public,  
Date Here Insert Name and Title of the Officer

personally appeared Daniel Kingsley  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rebecca C. Ong  
Signature of Notary Public



Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

**Exhibit A**

**Legal Description of Project Site**

## PROJECT SITE

ALL THAT REAL PROPERTY LOCATED IN THE CITY OF SOUTH SAN FRANCISCO, COUNTY OF SAN MATEO, STATE OF CALIFORNIA. THE BELOW DESCRIBED PARCEL CONSISTING OF THREE SEPARATE PARCELS; SAID PARCEL BEING A PORTION OF OYSTER POINT BOULEVARD; ALSO BEING A PORTION OF PARCEL 1 AND ALSO BEING A PORTION OF PARCEL 4 ALL AS SHOWN IN BOOK 52 OF PARCEL MAPS AT PAGES 58 AND 59 AS RECORDED IN THE RECORDS OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA.

SAID PARCEL IS ALSO A PORTION OF OYSTER POINT BOULEVARD, MARINA BOULEVARD, AND A PORTION OF PARCELS A, B, C, D, AND A PORTION OF THE REMAINDER PARCEL AS SHOWN ON THE PARCEL MAP RECORDED AT BOOK 55 AT PAGES 61 THROUGH 64 IN THE RECORDS OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA. .

SAID PARCEL IS ALSO A PORTION OF PARCEL A AND A PORTION OF GULL DRIVE AS SHOWN ON PARCEL MAP RECORDED IN BOOK 72 AT PAGES 6, 7 AND 8 IN THE RECORDS OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA.

SAID PARCEL MORE PARTICULAR DESCRIBED AS FOLLOWS:

### Parcel 1 of 3

#### PARCEL 1

BEGINNING AT A POINT AT THE SOUTH EAST CORNER OF PARCEL 4 AND THE SOUTH WEST CORNER OF PARCEL 3, AS RECORDED IN BOOK 52 AT PAGES 58 AND 59 OF THE RECORDS OF SAN MATEO COUNTY CALIFORNIA, THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 4 AND ITS PROLONGATION

S89° 59' 36"W FOR 327.72 FEET TO THE TRUE POINT OF BEGINNING

;

1) THENCE S01° 24' 26"E FOR 28.57 FEET;

2) THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 949.00 FEET AND A CENTRAL ANGLE OF 36° 40' 32" FOR AN ARC LENGTH OF 607.46 FEET, SAID CURVE HAVING A CHORD BEARING OF S19° 44' 42"E FOR 597.14 FEET;



3) THENCE TO THE BEGINNING POINT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 24.00 FEET AND A CENTRAL ANGLE OF 101° 45' 03" FROM WHICH THE RADIUS POINT BEARS S51° 55' 03"W, THENCE RIGHT ALONG SAID CURVE FOR AN ARC LENGTH OF 42.62 FEET, SAID CURVE HAVING A CHORD BEARING OF S12° 47' 35"W FOR 37.24 FEET;

4) THENCE TO THE BEGINNING POINT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 646.00 FEET AND A CENTRAL ANGLE OF 30° 32' 59" FROM WHICH THE RADIUS POINT BEARS N26° 19' 53"W, THENCE RIGHT ALONG SAID CURVE FOR AN ARC LENGTH OF 344.44 FEET, SAID CURVE HAVING A CHORD BEARING OF S78° 56' 36"W FOR 340.38 FEET;

5) THENCE N85° 46' 55"W FOR 327.57 FEET;

6) THENCE N00° 39' 36"E FOR 21.92 FEET;

7) THENCE N00° 00' 55"W FOR 489.03 FEET;

8) THENCE S64° 44' 05"W FOR 214.94 FEET;

9) THENCE N81° 45' 55"W FOR 389.76 FEET;

10) THENCE N00° 00' 55"W FOR 192.73 FEET;

11) THENCE N89° 59' 05"E FOR 280.00 FEET;

12) THENCE N00° 00' 55"W FOR 113.73 FEET;

13) THENCE N85° 25' 03"E FOR 80.69 FEET;

14) THENCE N70° 37' 40"E FOR 33.30 FEET;

15) THENCE S84° 48' 27"E FOR 47.97 FEET;

16) THENCE N69° 29' 57"E FOR 88.19 FEET;

17) THENCE S88° 43' 39"E FOR 77.81 FEET;

18) THENCE N61° 38' 35"E FOR 57.68 FEET;

19) THENCE N29° 00' 33"E FOR 40.55 FEET;

20) THENCE N14° 12' 18"E FOR 105.68 FEET;

21) THENCE N04° 42' 29"E FOR 52.20 FEET;

22) THENCE N05° 39' 31"W FOR 96.57 FEET;

23) THENCE N04° 30' 16"W FOR 128.84 FEET;

24) THENCE N13° 21' 11"E FOR 99.18 FEET;

25) THENCE N40° 22' 33"E FOR 77.49 FEET;

26) THENCE N47° 45' 37"E FOR 30.06 FEET;

27) THENCE N21° 58' 26"E FOR 50.79 FEET;

- 28) THENCE N36° 08' 50"E FOR 63.39 FEET;
- 29) THENCE N40° 15' 02"W FOR 123.25 FEET;
- 30) THENCE N43° 43' 08"W FOR 259.13 FEET;
- 31) THENCE N72° 25' 37"E FOR 381.75 FEET;
- 32) THENCE N00° 00' 55"W FOR 51.63 FEET;
- 33) THENCE N89° 59' 05"E FOR 88.82 FEET;
- 34) THENCE S26° 41' 01"E FOR 633.96 FEET;

35) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 62.00 FEET AND A CENTRAL ANGLE OF 17° 04' 11" FROM WHICH THE RADIUS POINT BEARS S26° 41' 01"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 18.47 FEET, SAID CURVE HAVING A CHORD BEARING OF S54° 46' 54"W FOR 18.40 FEET;

- 36) THENCE N89° 25' 58"W FOR 250.57 FEET;

37) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 9508.00 FEET AND A CENTRAL ANGLE OF 03° 28' 53" FROM WHICH THE RADIUS POINT BEARS S87° 55' 33"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 577.72 FEET, SAID CURVE HAVING A CHORD BEARING OF S00° 20' 01"W FOR 577.63 FEET;

- 38) THENCE S01° 24' 26"E FOR 167.80 FEET,

TO THE TRUE POINT OF BEGINNING,

THE AREA BEING 24.22 ACRES.

**Parcel 2 of 3**

**PARCEL 2**

BEGINNING AT THE SOUTH EAST CORNER OF PARCEL 4, AND THE SOUTH WEST CORNER OF PARCEL 3, AS SHOWN ON THE PARCEL MAP RECORDED IN BOOK 52 AT PAGE 59 OF THE RECORDS OF SAN MATEO COUNTY, CALIFORNIA

- 1) THENCE S00° 00' 55"E FOR 16.61 FEET;
- 2) THENCE S89° 59' 05"W FOR 18.77 FEET;
- 3) THENCE TO THE BEGINNING POINT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5.00 FEET AND A CENTRAL ANGLE OF 87° 02' 04" FROM WHICH THE RADIUS POINT BEARS N87° 03' 01"W, THENCE RIGHT ALONG SAID CURVE FOR AN ARC LENGTH OF 7.60 FEET, SAID CURVE HAVING A CHORD BEARING OF S46° 28' 01"W FOR 6.89 FEET;
- 4) THENCE S02° 57' 02"W FOR 12.14 FEET;

- 5) THENCE S22° 32' 46"W FOR 26.79 FEET;
- 6) THENCE S05° 17' 28"W FOR 16.62 FEET;
- 7) THENCE S14° 33' 22"W FOR 18.66 FEET;
- 8) THENCE S07° 07' 20"W FOR 46.52 FEET;
- 9) THENCE S02° 39' 54"E FOR 26.13 FEET;
- 10) THENCE S11° 27' 55"E FOR 9.33 FEET;
- 11) THENCE S03° 55' 51"W FOR 16.94 FEET;
- 12) THENCE S15° 09' 09"W FOR 13.90 FEET;
- 13) THENCE S07° 33' 30"W FOR 7.72 FEET;
- 14) THENCE S31° 12' 57"W FOR 14.75 FEET;
- 15) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 12.00 FEET AND A CENTRAL ANGLE OF 99° 15' 11" FROM WHICH THE RADIUS POINT BEARS S58° 47' 02"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 20.79 FEET, SAID CURVE HAVING A CHORD BEARING OF S18° 24' 37"E FOR 18.28 FEET;
- 16) THENCE S68° 02' 11"E FOR 4.44 FEET;
- 17) THENCE TO THE BEGINNING POINT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 6.73 FEET AND A CENTRAL ANGLE OF 57° 05' 06" FROM WHICH THE RADIUS POINT BEARS S33° 25' 31"W, THENCE RIGHT ALONG SAID CURVE FOR AN ARC LENGTH OF 6.71 FEET, SAID CURVE HAVING A CHORD BEARING OF S28° 01' 56"E FOR 6.43 FEET;
- 18) THENCE S10° 34' 28"E FOR 6.58 FEET;
- 19) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 89.35 FEET AND A CENTRAL ANGLE OF 34° 25' 13" FROM WHICH THE RADIUS POINT BEARS N89° 41' 32"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 53.68 FEET, SAID CURVE HAVING A CHORD BEARING OF S17° 31' 04"E FOR 52.87 FEET;
- 20) THENCE S33° 05' 28"E FOR 51.02 FEET;
- 21) THENCE S30° 08' 44"E FOR 51.48 FEET;
- 22) THENCE S39° 10' 44"E FOR 68.51 FEET;
- 23) THENCE S36° 43' 24"E FOR 31.32 FEET;
- 24) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 290.17 FEET AND A CENTRAL ANGLE OF 44° 11' 01" FROM WHICH THE RADIUS POINT BEARS N56° 01' 39"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 223.76 FEET, SAID CURVE HAVING A CHORD BEARING OF S56° 03' 52"E FOR 218.26 FEET;
- 25) THENCE S81° 27' 48"E FOR 127.43 FEET;
- 26) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 1550.60 FEET AND A CENTRAL ANGLE OF 05° 19' 25" FROM WHICH THE RADIUS POINT BEARS N05° 19'

30"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 144.08 FEET, SAID CURVE HAVING A CHORD BEARING OF S87° 20' 13"E FOR 144.02 FEET;

27) THENCE S07° 36' 22"W FOR 236.51 FEET;

28) THENCE TO THE BEGINNING POINT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 856.00 FEET AND A CENTRAL ANGLE OF 12° 03' 11" FROM WHICH THE RADIUS POINT BEARS N07° 36' 22"E, THENCE RIGHT ALONG SAID CURVE FOR AN ARC LENGTH OF 180.07 FEET, SAID CURVE HAVING A CHORD BEARING OF N76° 22' 03"W FOR 179.74 FEET;

29) THENCE N20° 13' 04"E FOR 20.00 FEET;

30) THENCE TO THE BEGINNING POINT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 836.00 FEET AND A CENTRAL ANGLE OF 68° 56' 49" FROM WHICH THE RADIUS POINT BEARS N19° 38' 45"E, THENCE RIGHT ALONG SAID CURVE FOR AN ARC LENGTH OF 1006.00 FEET, SAID CURVE HAVING A CHORD BEARING OF N35° 52' 51"W FOR 946.39 FEET;

31) THENCE N01° 24' 25"W FOR 25.81 FEET;

32) THENCE N01° 24' 26"W FOR 170.56 FEET;

33) THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 9395.00 FEET AND A CENTRAL ANGLE OF 02° 59' 14" FOR AN ARC LENGTH OF 489.80 FEET, SAID CURVE HAVING A CHORD BEARING OF N00° 05' 11"E FOR 489.75 FEET;

34) THENCE S89° 25' 58"E FOR 135.04 FEET; TO A POINT ON THE CUL-DE-SAC AT THE NORTH END OF SAID PARCEL 4 AS RECORDED IN BOOK 52 AT PAGE 59

35) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 62.00 FEET AND A CENTRAL ANGLE OF 77° 30' 15" FROM WHICH THE RADIUS POINT BEARS N50° 49' 14"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 83.87 FEET, SAID CURVE HAVING A CHORD BEARING OF S77° 55' 54"E FOR 77.62 FEET; thence continuing along the Easterly side of said Parcel 4

36) THENCE S26° 41' 01"E FOR 15.66 FEET;

37) THENCE S00° 00' 55"E FOR 628.68 FEET, TO THE SOUTH EAST CORNER OF SAID PARCEL 4 AND THE POINT OF BEGINNING,

THE AREA BEING 7.22 ACRES.

### **Parcel 3 of 3**

#### **PARCEL 3**

BEGINNING AT A POINT AT THE SOUTH EAST CORNER OF PARCEL 4 AND THE SOUTH WEST CORNER OF PARCEL 3, AS RECORDED IN BOOK 52 AT PAGES 58 AND 59 OF THE RECORDS OF SAN MATEO COUNTY CALIFORNIA, THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 4

1) THENCE S89° 59' 36"W FOR 327.72 FEET;

- 2) THENCE S01° 24' 26"E FOR 28.57 FEET;
- 3) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 949.00 FEET AND A CENTRAL ANGLE OF 41° 54' 50" FROM WHICH THE RADIUS POINT BEARS N88° 49' 12"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 694.23 FEET,
- 4) THENCE S46° 40' 44"W FOR 3.50 FEET;
- 5) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 952.50 FEET AND A CENTRAL ANGLE OF 26° 28' 51" FROM WHICH THE RADIUS POINT BEARS S70° 45' 23"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 440.22 FEET,
- 6) THENCE S00° 45' 17"W FOR 169.54 FEET. TO A POINT AND

**THE TRUE POINT OF BEGINNING**

- 1) THENCE S89° 55' 25"W FOR 737.35 FEET TO A POINT ON THE EASTERLY SIDE OF GULL DRIVE AND AT THE SOUTH WEST CORNER OF PARCEL A AS RECORDED IN BOOK 72 OF PARCEL MAPS AT PAGE 7. THENCE NORTHERLY ALONG SAID GULL DRIVE
- 2) THENCE N01° 39' 45"E FOR 27.23 FEET;
- 3) THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 520.55 FEET AND A CENTRAL ANGLE OF 37° 40' 44" FOR AN ARC LENGTH OF 342.32 FEET, SAID CURVE HAVING A CHORD BEARING OF N17° 10' 37"W FOR 336.19 FEET;
- 4) THENCE N36° 00' 59"W FOR 111.60 FEET;
- 5) THENCE N37° 35' 47"W FOR 95.40 FEET;
- 6) THENCE TO THE BEGINNING POINT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 68.40 FEET AND A CENTRAL ANGLE OF 18° 11' 27" FROM WHICH THE RADIUS POINT BEARS N70° 36' 44"E, THENCE RIGHT ALONG SAID CURVE FOR AN ARC LENGTH OF 21.72 FEET, SAID CURVE HAVING A CHORD BEARING OF N10° 17' 32"W FOR 21.63 FEET;
- 7) THENCE S85° 46' 55"E FOR 254.12 FEET;
- 8) THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 754.00 FEET AND A CENTRAL ANGLE OF 32° 35' 48" FOR AN ARC LENGTH OF 428.96 FEET, SAID CURVE HAVING A CHORD BEARING OF N77° 55' 12"E FOR 423.20 FEET;
- 9) THENCE N61° 37' 17"E FOR 14.42 FEET;
- 10) THENCE TO THE BEGINNING POINT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 24.00 FEET AND A CENTRAL ANGLE OF 70° 50' 44" FROM WHICH THE RADIUS POINT BEARS S28° 22' 42"E, THENCE RIGHT ALONG SAID CURVE FOR AN ARC LENGTH OF 29.68 FEET, SAID CURVE HAVING A CHORD BEARING OF S82° 57' 20"E FOR 27.82 FEET;
- 11) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 952.50 FEET AND A CENTRAL ANGLE OF 22° 16' 08" FROM WHICH THE RADIUS POINT BEARS N42° 28' 01"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 370.20 FEET, SAID CURVE HAVING A CHORD BEARING OF S58° 40' 03"E FOR 367.88 FEET;
- 12) THENCE S20° 54' 17"W FOR 74.52 FEET;

13) THENCE TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 526.93 FEET AND A CENTRAL ANGLE OF 19° 39' 18" FROM WHICH THE RADIUS POINT BEARS S70° 45' 23"E, THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 180.76 FEET, SAID CURVE HAVING A CHORD BEARING OF S09° 24' 58"W FOR 179.87 FEET;

14) THENCE S00° 45' 17"W FOR 169.54 FEET,

TO THE TRUE POINT OF BEGINNING,

THE AREA BEING 10.07 ACRES.

LEGAL DESCRIPTION PREPARED BY \_\_\_\_\_

KENNETH P. MOORE PLS 4918

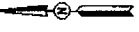
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DATE 3-10-11

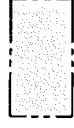
WILSEY HAM  
 3130 LA SELVA STREET, SUITE 100, SAN MATEO, CA 94403 (650)349-2151  
 JOB NO. 869-005  
 SCALE: N.T.S.  
 DATE: 03-11-11  
 SOUTH SAN FRANCISCO SAN MATEO COUNTY CALIFORNIA  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 PROJECT SITE (PARCELS 1 - 3)



**LEGEND**



--- PROPERTY LINE



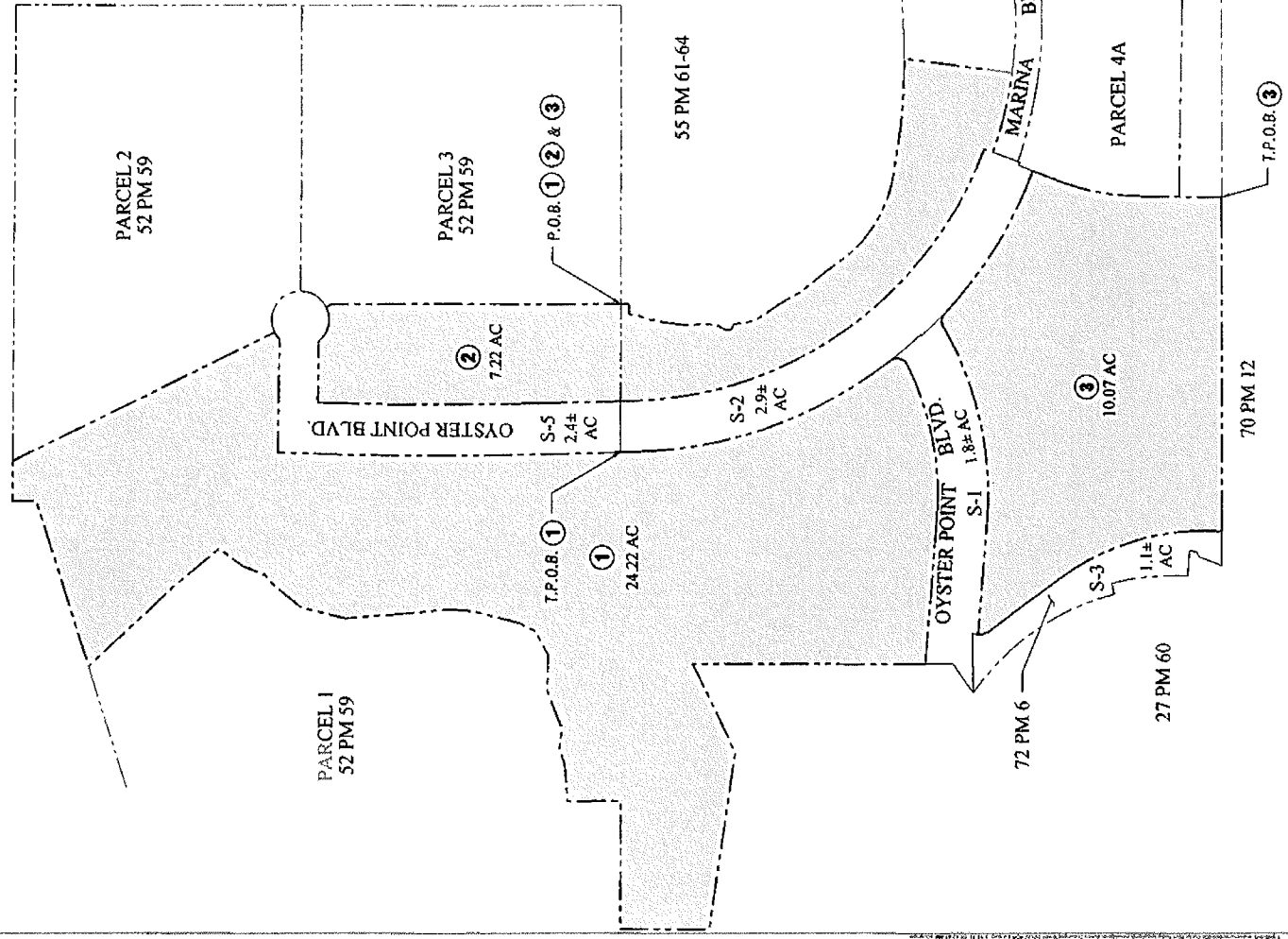
--- PROJECT SITE

P.O.B. POINT OF BEGINNING

T.P.O.B. TRUE POINT OF BEGINNING

③ DESCRIPTION PARCELS

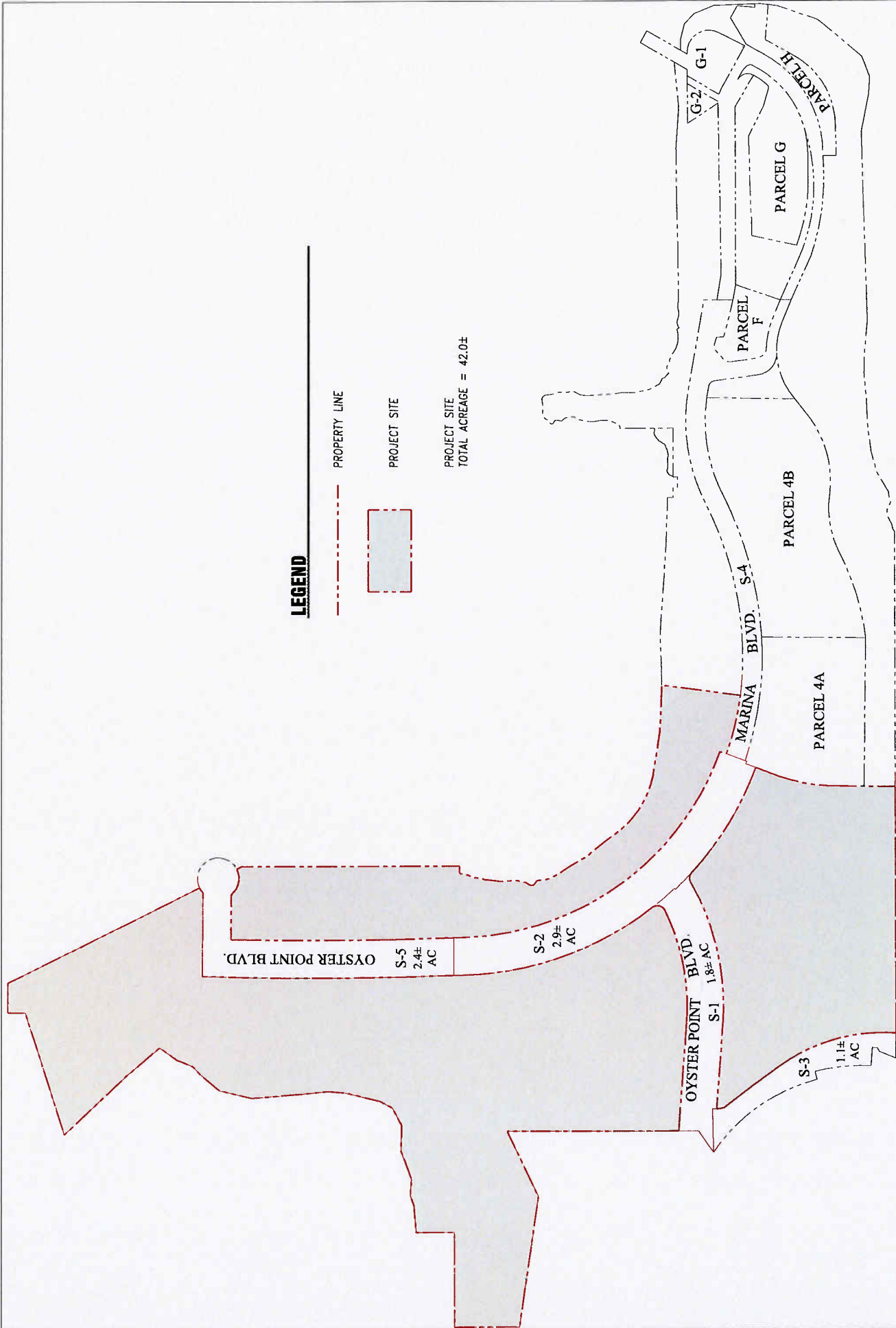
PROJECT SITE  
TOTAL ACREAGE = 41.51



**Exhibit B**

**Diagram of Project Site**





**LEGEND**

--- PROPERTY LINE

▭ PROJECT SITE

PROJECT SITE  
TOTAL ACREAGE = 42.0±

**Exhibit C**

**Phase I, II, III, and IV Improvements**

**PHASES ID**

- I** UP TO 508,000 GSF OF OFFICE/R&D SPACE
- J** CLAY CAP REPAIR AT PHASE ID
- K** CLEANUP OF SUMP 1
- L** METHANE MITIGATION SYSTEMS
- M** RELOCATION OF REFUSE

**PHASE IC**

- A** STREETS & UTILITIES AT HUB
- B** STREETS & UTILITIES TO POINT
- C** CLAY CAP REPAIR AT PHASE IC
- D** RECONFIGURED PARKING AT MARINA
- E** RECREATION AREA
- F** FUTURE HOTEL SITE
- G** BEACH/PARK
- H** BAY TRAIL & PALM PROMENADE

**PHASES IID-IVD**

- N** UP TO 1,746,230 GSF OF OFFICE/R&D SPACE
- O** STREETS & UTILITIES IN BUSINESS PARK
- P** RELOCATION OF SEWER PUMP STATION
- Q** LANDSCAPING AT BCDC PHASES IID-IVD

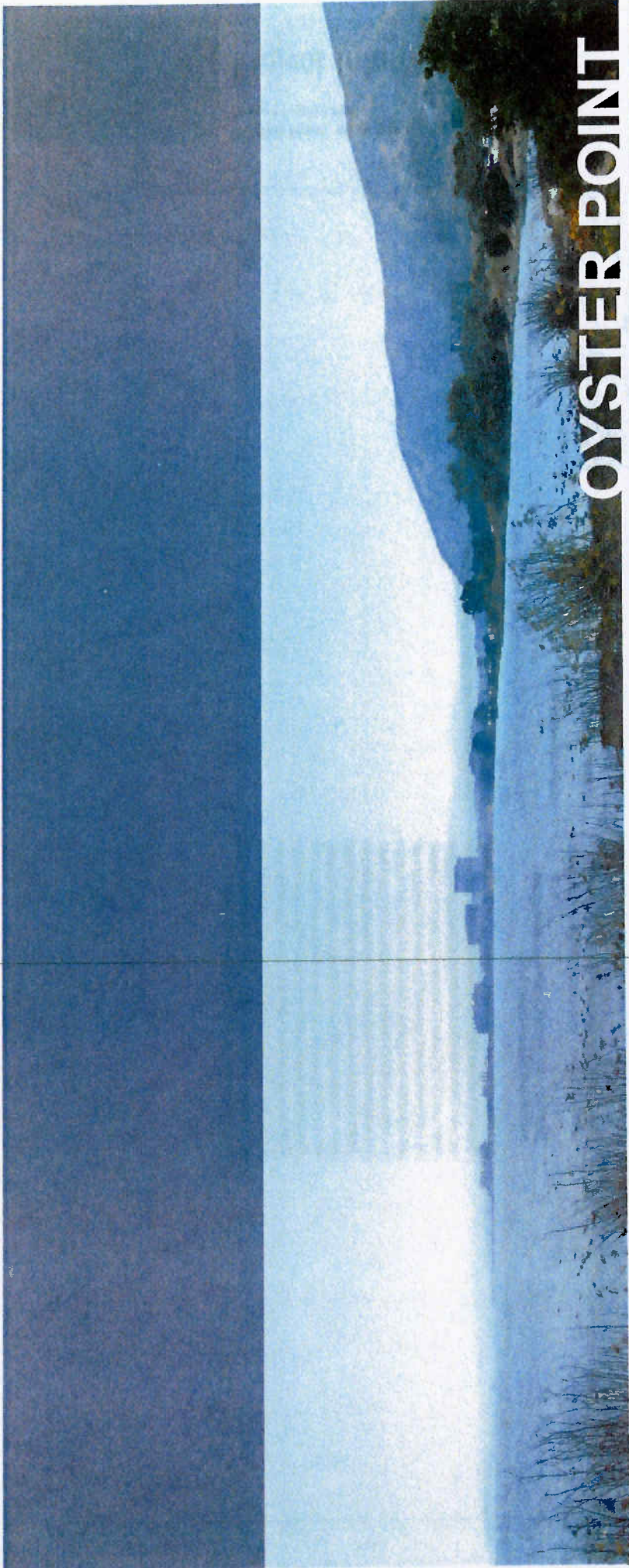
**PHASE IIC**

- R** REPAVING OF PARKING PHASE IIC
- S** LANDSCAPING AT PARKING PHASE IIC
- T** LANDSCAPING AT BCDC PHASES IIC



**Exhibit D**

**Phase I Precise Plan**



# OYSTER POINT

Phase I Precise Plan  
Shorenstein/SKS

DRAFT February 23, 2011

PERKINS  
+ WILL

## Project Information

This Phase I Precise Plan ("Precise Plan") authorizes and will guide the initial phase of the development contemplated in the Oyster Point Specific Plan District under the Zoning Ordinance of the City of South San Francisco ("Specific Plan"). The purpose of the Specific Plan is to transform 81 acres of under-utilized, under-developed, and environmentally challenged Bay front land into a sustainable mixed-use development, including a state-of-the-art life sciences/research and development campus, a park and recreation destination, and a vibrant marina environment, which can accommodate compatible commercial and hotel uses.

This Precise Plan implements Phase I of the Specific Plan, which includes the following components:

- Construction of approximately 508,000 gross square feet of office/research and development buildings, with associated parking, constructed across approximately 10 acres
- Improvement of approximately 20 acres of City-owned public open space, recreational facilities, and landfill cover
- Extensive improvements to roads and utilities across approximately 6 acres of public land

The Precise Plan also implements, in part, (1) a Development Agreement with the City for construction of an office/R&D campus, open space amenities and related infrastructure improvements, and (2) [an Owner Participation Agreement / Disposition and Development Agreement] between the developer and the Redevelopment Agency of the City of South San Francisco, which establishes specific requirements, timing, and funding arrangements for construction of improvements within the Added Area of the Downtown-Central Redevelopment Project Area. In compliance with the California Environmental Quality Act, the City has certified an Environmental Impact Report addressing the redevelopment of the Oyster Point Specific Plan District at a program level, and the Phase I Precise Plan at a project level. The City has also adopted appropriate findings concerning both the Specific Plan and this Precise Plan, and a Mitigation Monitoring and Reporting Program for each.

## Vicinity Map



Additional Precise Plans will be adopted by the City in future years to implement future phases of office/R&D development contemplated under the Specific Plan. Under certain circumstances, one or more of such future Precise Plans may require further targeted environmental review. At its discretion, the City may also pursue development of hotel and retail/restaurant uses on its property, in accordance with the Specific Plan. Under certain circumstances development of such hotel and retail/restaurant uses also may require further targeted environmental review.

Phase One Parcel Acreage:	10 acres
Total Building Area:	508,000 GSF
Total Parking Count*:	1,270 stalls
Parking Ratio:	2.5
Allowable FAR**:	1.25
Actual FAR (Phase I R&D):	1.16

\* Parking space standards based on 8.5 FT x 18 FT with 25 FT aisle

\*\*1.25 FAR calculated over entire future development

## Project Team

**Owner/Developer**  
**Shorenstein Realty Services**  
 235 Montgomery Street  
 San Francisco, CA 94104  
 Tel. 415-772-7000

**SKS Investments**  
 601 California Street, Suite 1310  
 San Francisco, CA 94108  
 Tel. 415-421-8200

**Architect**  
**Perkins+Will**  
 185 Berry Street, Suite 5100  
 San Francisco, CA 94107

**Civil Engineer**  
**Wilsey Ham**  
 393 Vintage Park Drive, Suite 100  
 Foster City, CA 94404

**Landscape Architect**  
**Meyer+Silberberg Land Architects**  
 1443 Cornell Avenue  
 Berkeley, CA 94702

**Structural, MEF, Transportation Engineers**  
**ARUP**  
 560 Mission Street, 7th Floor  
 San Francisco, CA 94105

**TDM Consultant**  
**HDR Engineering**  
 1325 J Street, Suite 1300  
 Sacramento, CA 95814

**Parking Consultant**  
**International Parking Design, Inc**  
 1201 Marina Village Parkway, Suite 100  
 Alameda, CA 94501

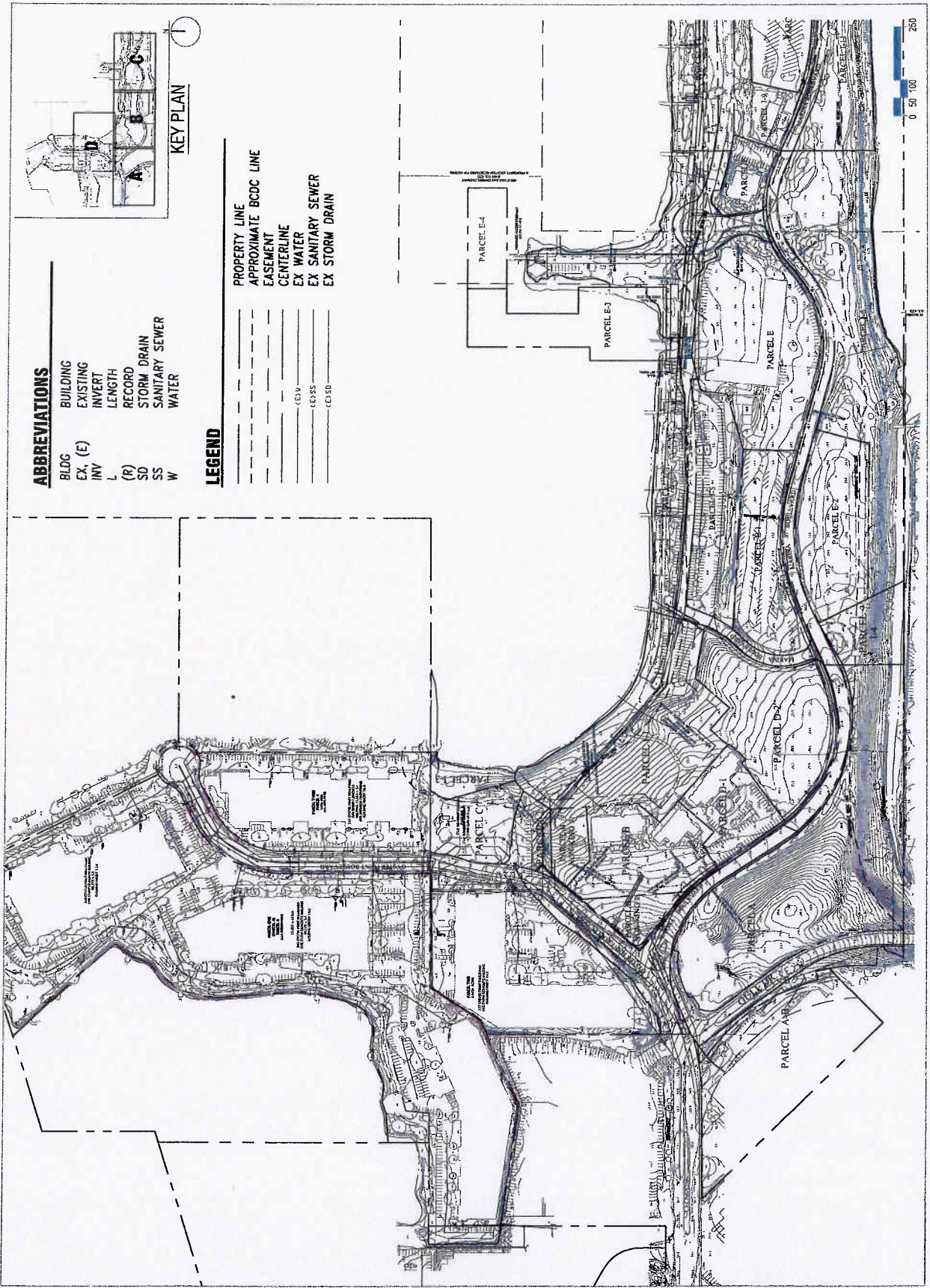
**Geotechnical Engineer**  
**Treadwell & Rollo**  
 555 Montgomery St, Suite 1300  
 San Francisco CA, 94111

**City of South San Francisco**  
 400 Grand Ave  
 South San Francisco, CA 94080  
 Tel. 650-877-8535

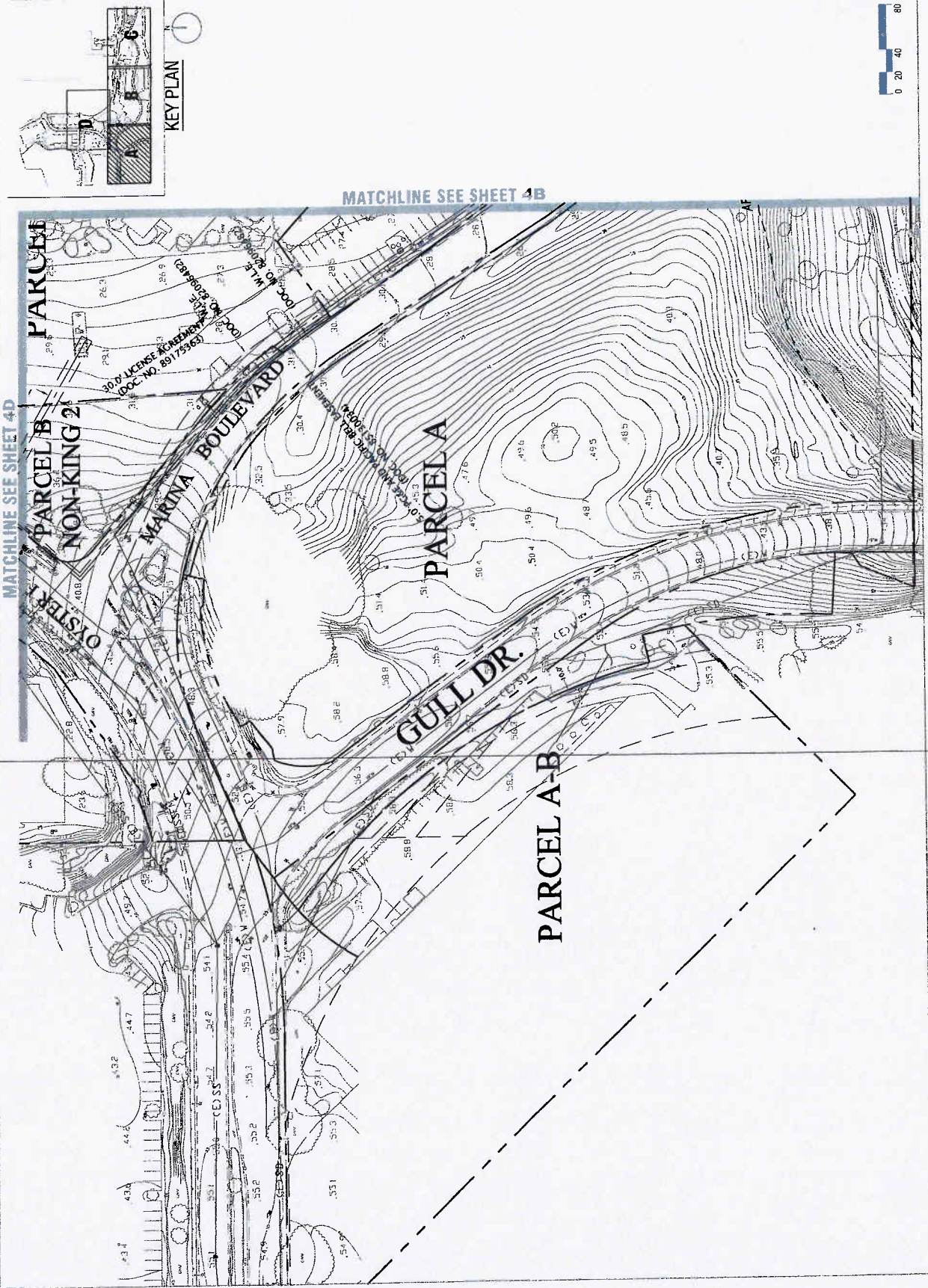
**ROMA Design Group**  
 1527 Stockton Street  
 San Francisco, CA 94133  
 Tel. 415-616-9900

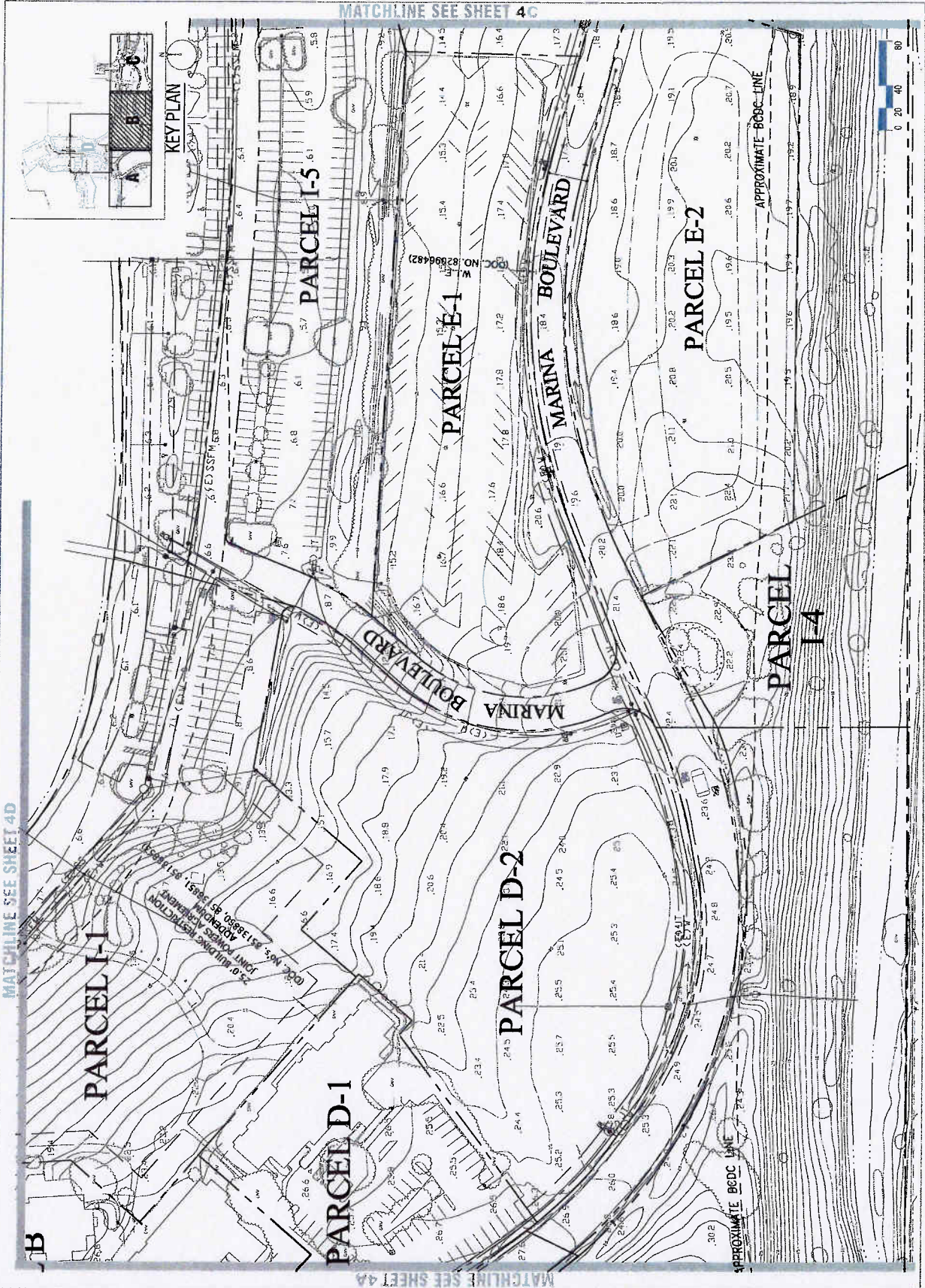
## Drawing Index

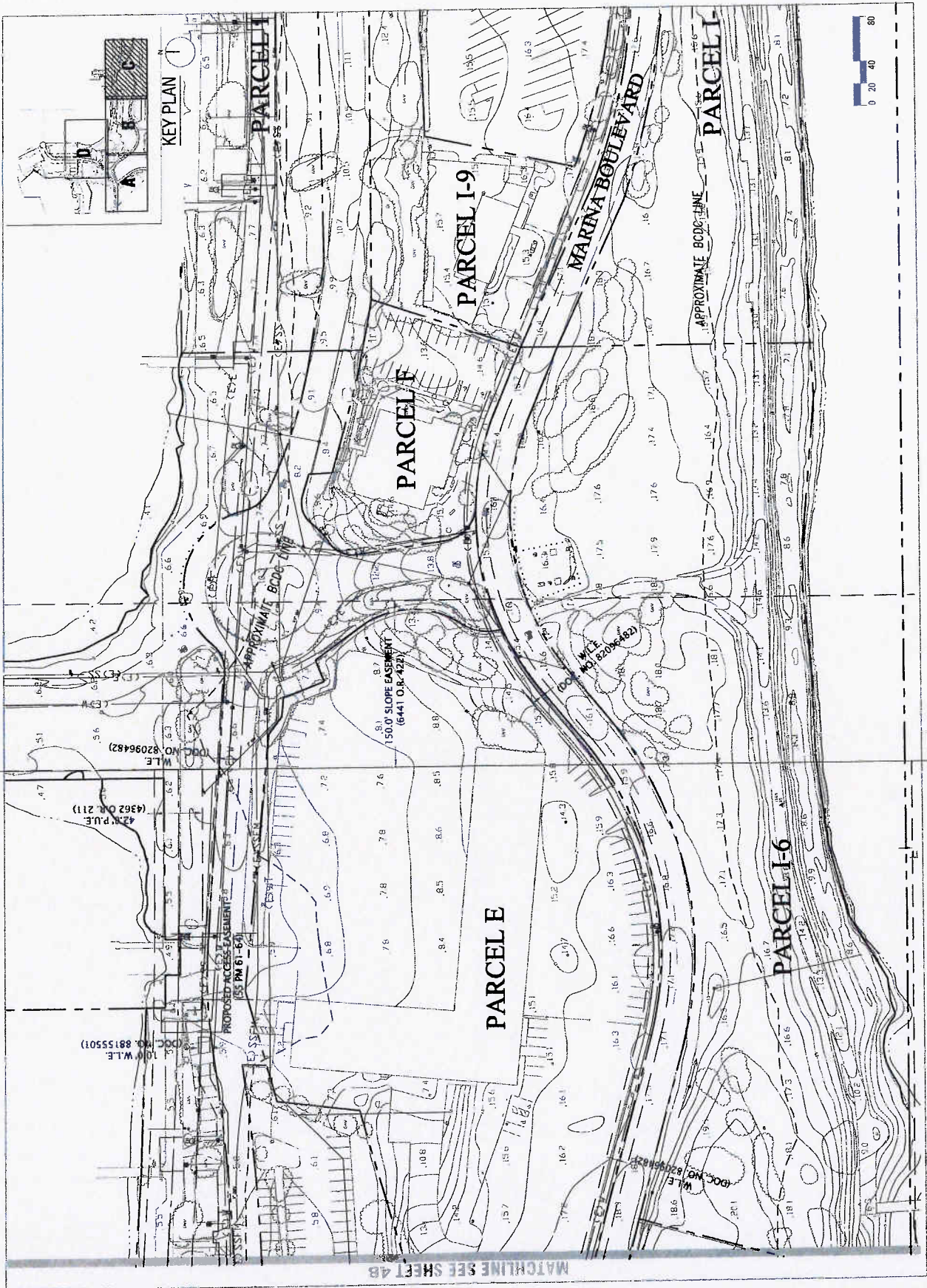
1	Cover	21	Overall Grading & Drainage Plan
2	Project Information	21A	Grading & Drainage Plan
3	Project Team and Drawing Index	21B	Grading & Drainage Plan
4	Existing Conditions Overall Plan: Aerial Topo, Record Boundary & Utilities	21C	Grading & Drainage Plan
4A	Existing Conditions: Aerial Topo, Record Boundary & Utilities	21D	Grading & Drainage Plan
4B	Existing Conditions: Aerial Topo, Record Boundary & Utilities	22	Service Level Plan
4C	Existing Conditions: Aerial Topo, Record Boundary & Utilities	23	First Parking Level Plan
4D	Existing Conditions: Aerial Topo, Record Boundary & Utilities	24	Plaza Level/Second Parking Level Plan
5	Existing Parcel Map	25	Third Parking Level Plan
6	Proposed Parcel Map	26	Fourth Parking Level Plan (Garage Roof)
7	Phase I Conceptual Site Plan	27	Typical Floor Level Plan
8	Phase I Conceptual Landscape Plan at Office/R&D Campus	28	Roof Plan
9	Phase I Planning Plan at Office/R&D Campus	29	Building 1A Typical Floor Plan
10	Phase I Planning Plan at Office/R&D Campus	30	Building 1B Typical Floor Plan
11	Planting Palette at Office/R&D Campus	31	Building 1C Typical Floor Plan
12	Landscape Site Elevations & Sections	32	Conceptual Lighting Plan
13	Landscape Site Elevations & Sections	33	Rendered Overall Site Elevations
14	Landscape Site Elevations & Sections	34	Rendered Building 1A Elevations
15	Landscape Site Elevations & Sections	35	Rendered Building 1B Elevations
16	Phase I Conceptual Site Plan for the Public Realm	36	Rendered Building 1C Elevations
17	Phase I Conceptual Landscape Plan for the Public Realm	37	Building 1A Elevations
17A	Bay Trail at Crescent Park	38	Building 1B Elevations
17B	Bay Trail at Marina	39	Building 1C Elevations
17C	Marina Blvd	40	Site Sections
18	Planting Palette for the Public Realm	41	Architectural Materials
19	Site Furnishings for the Public Realm	42	Architectural Materials
20	Overall Phase I Utility Plan	43	Architectural Materials
20A	Phase I Utility Plan	44	Perspective from Oyster Point Blvd
20B	Phase I Utility Plan	45	Perspective from Marina Blvd
20C	Phase I Utility Plan	46	Perspective from Plaza
20D	Phase I Utility Plan		

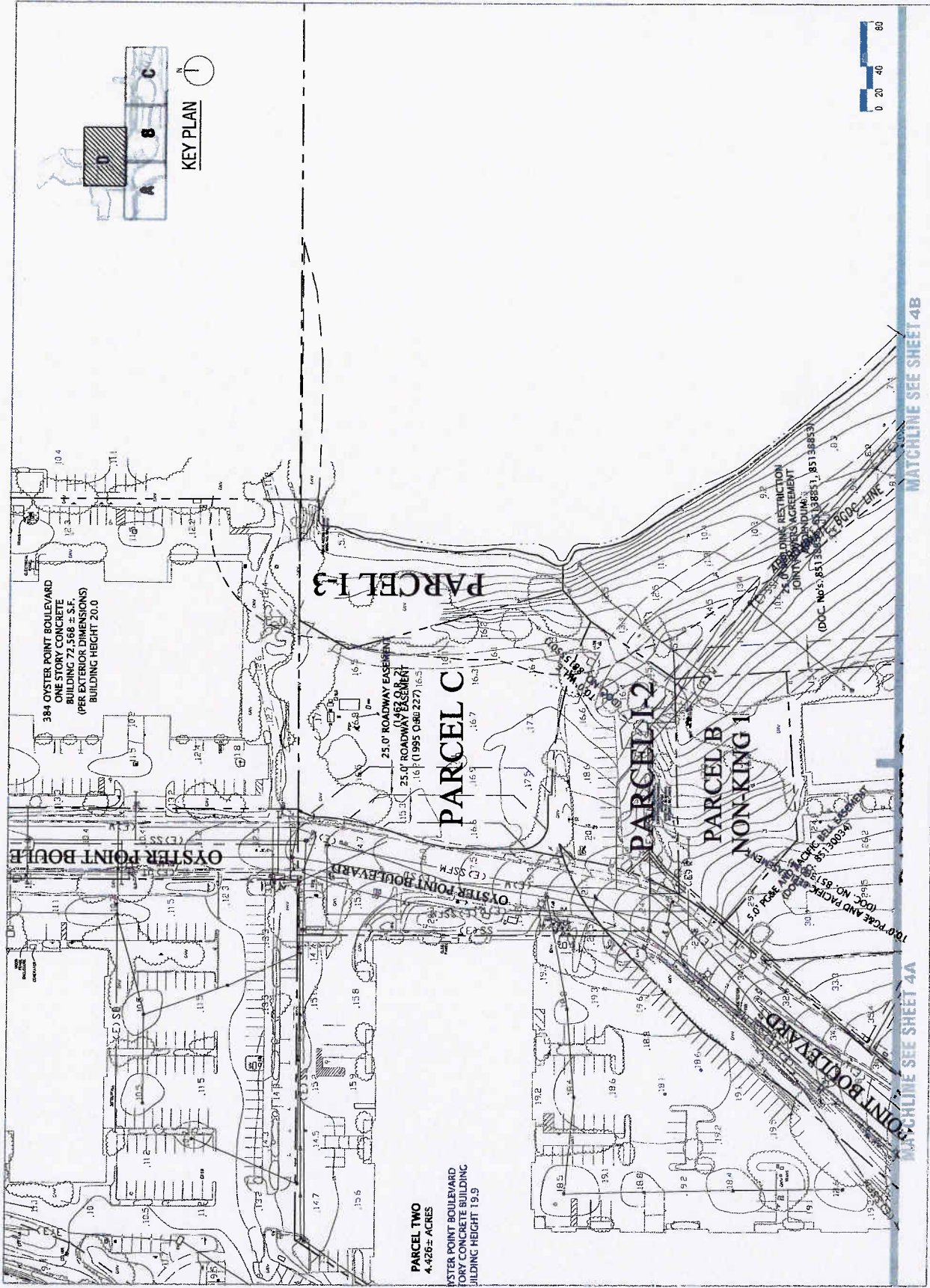












# Existing Parcel Map

Phase I Precise Plan  
 OYSTER POINT, South San Francisco

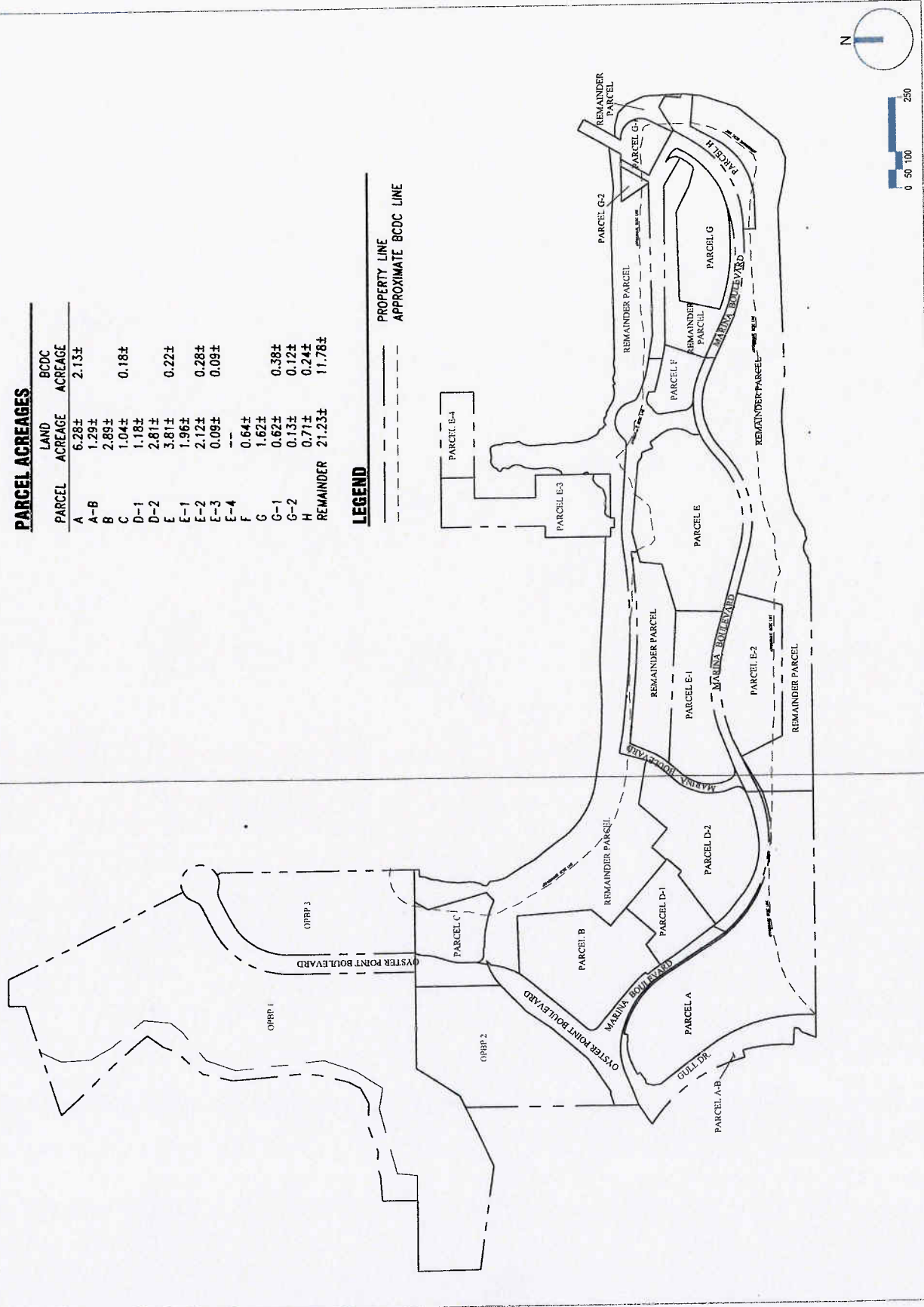
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 Mayer-Sibberg  
 Wisely Hart  
 ARUP  
 HDR Engineering  
 IPD  
 Treadwell & Rallo

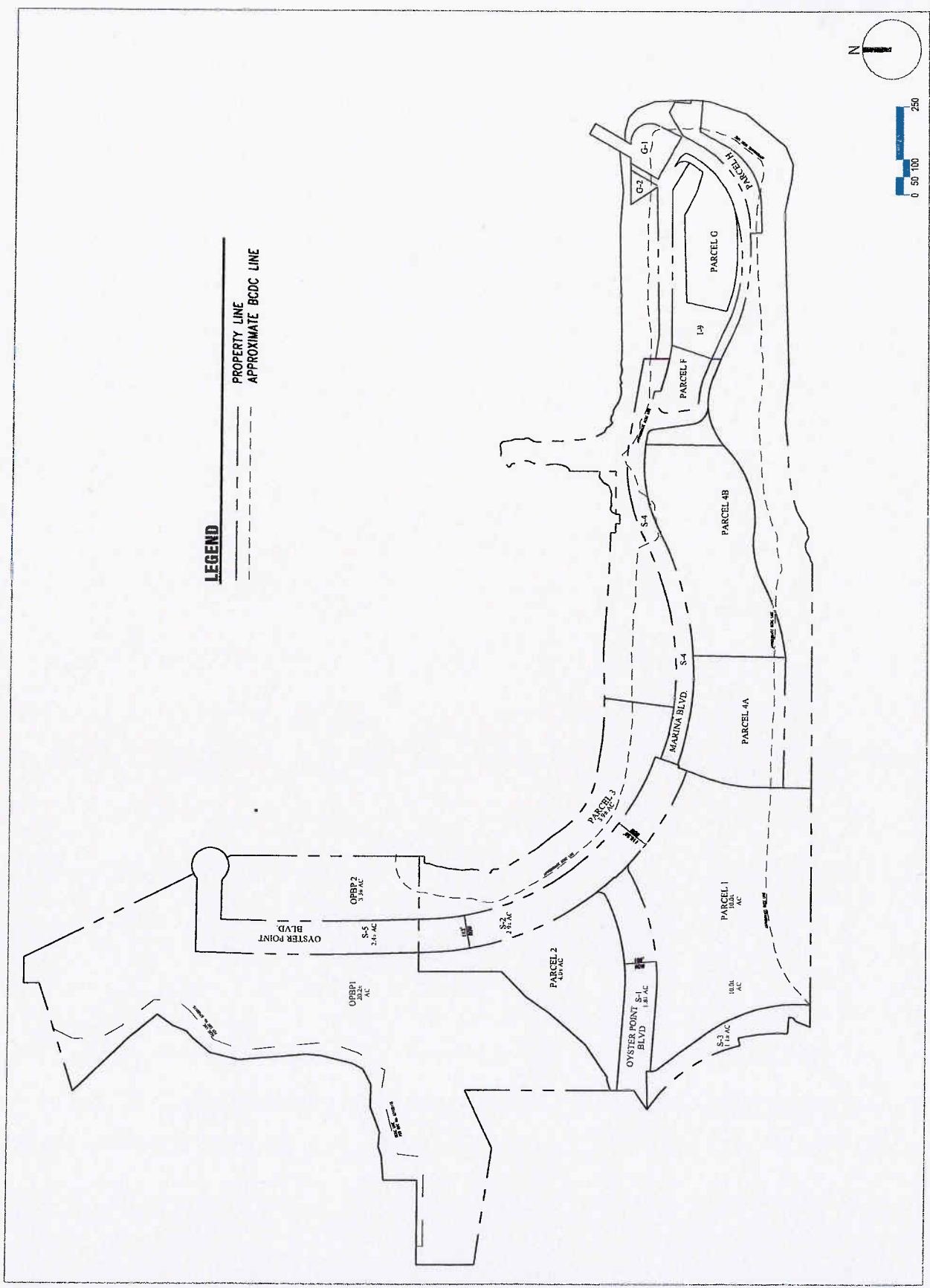
**PARCEL ACREAGES**

PARCEL	LAND ACREAGE	BCDC ACREAGE
A	6.28±	2.13±
A-B	1.29±	
B	2.89±	0.18±
C	1.04±	
D-1	1.18±	
D-2	2.81±	0.22±
E	3.81±	
E-1	1.96±	0.28±
E-2	2.12±	0.09±
E-3	0.09±	
E-4	---	
F	0.64±	
G	1.62±	0.38±
G-1	0.62±	0.12±
G-2	0.13±	0.24±
H	0.71±	11.78±
REMAINDER	21.23±	

**LEGEND**

PROPERTY LINE  
 APPROXIMATE BCDC LINE







**SKS**

Investments

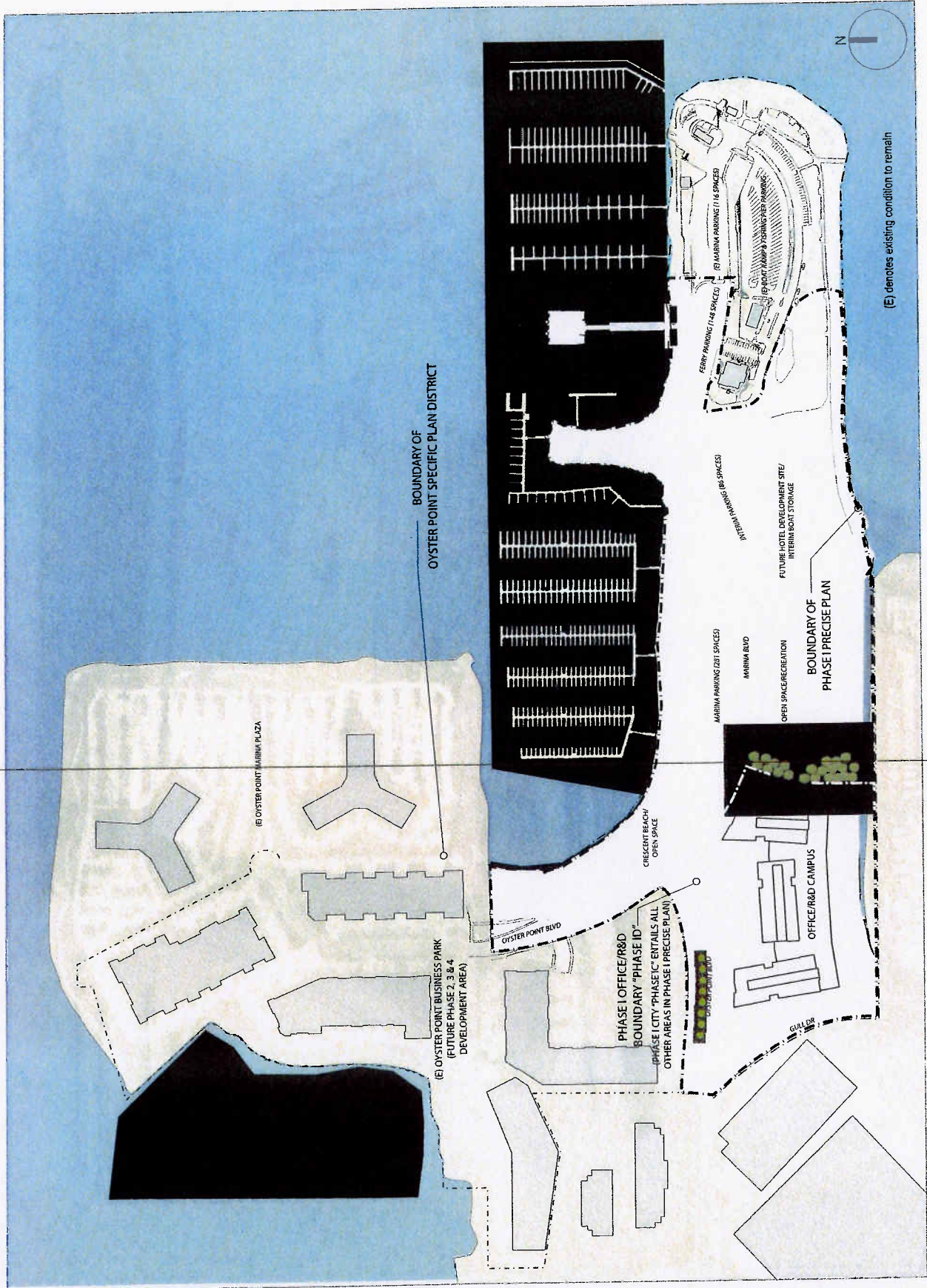
DRAFT February 23, 2011

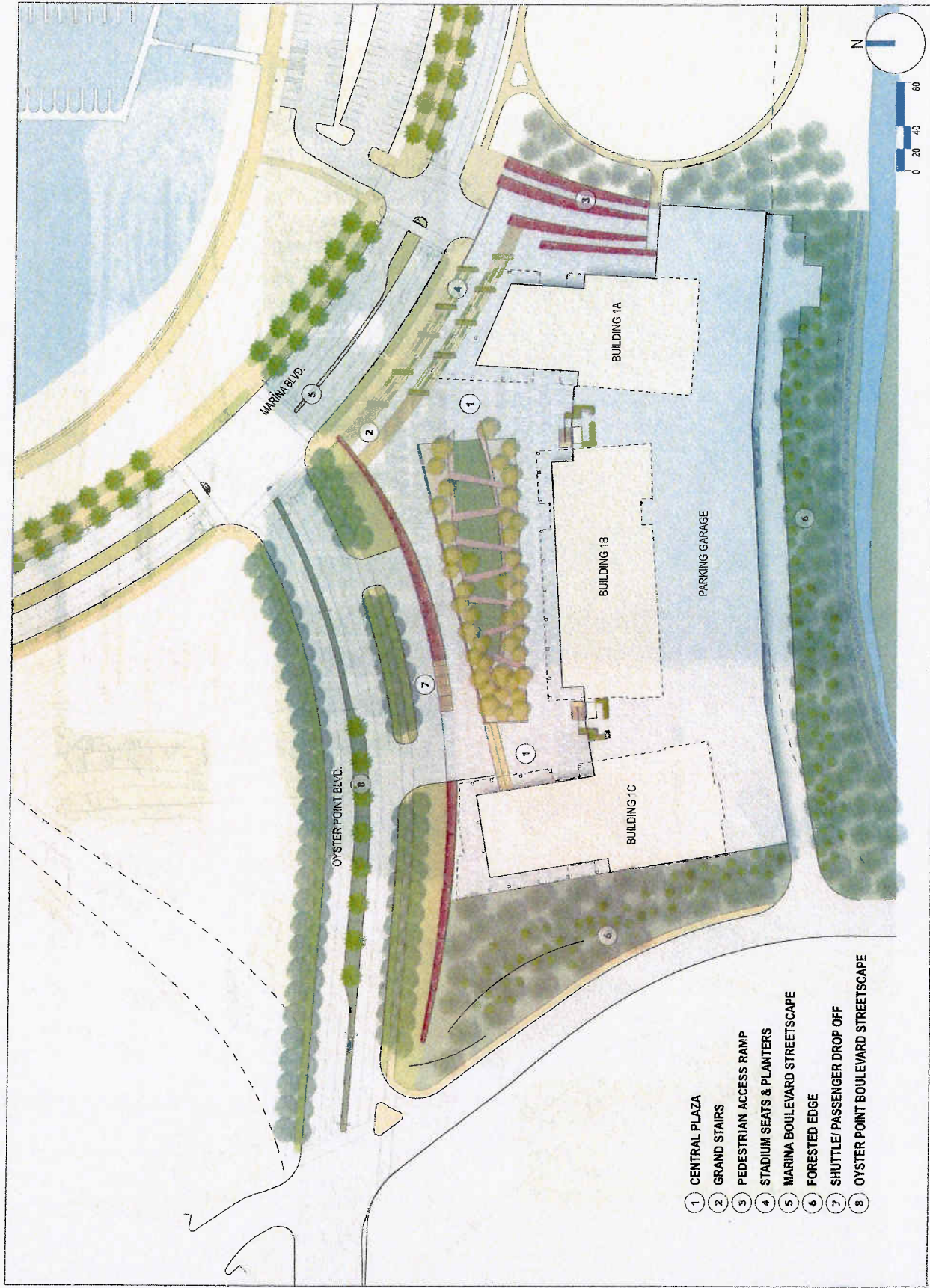
# Phase I Conceptual Site Plan

OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Mayer+Silberberg  
Wilsey Ham  
ARUP  
HDR Engineering  
IPD  
Treadwell & Rallo

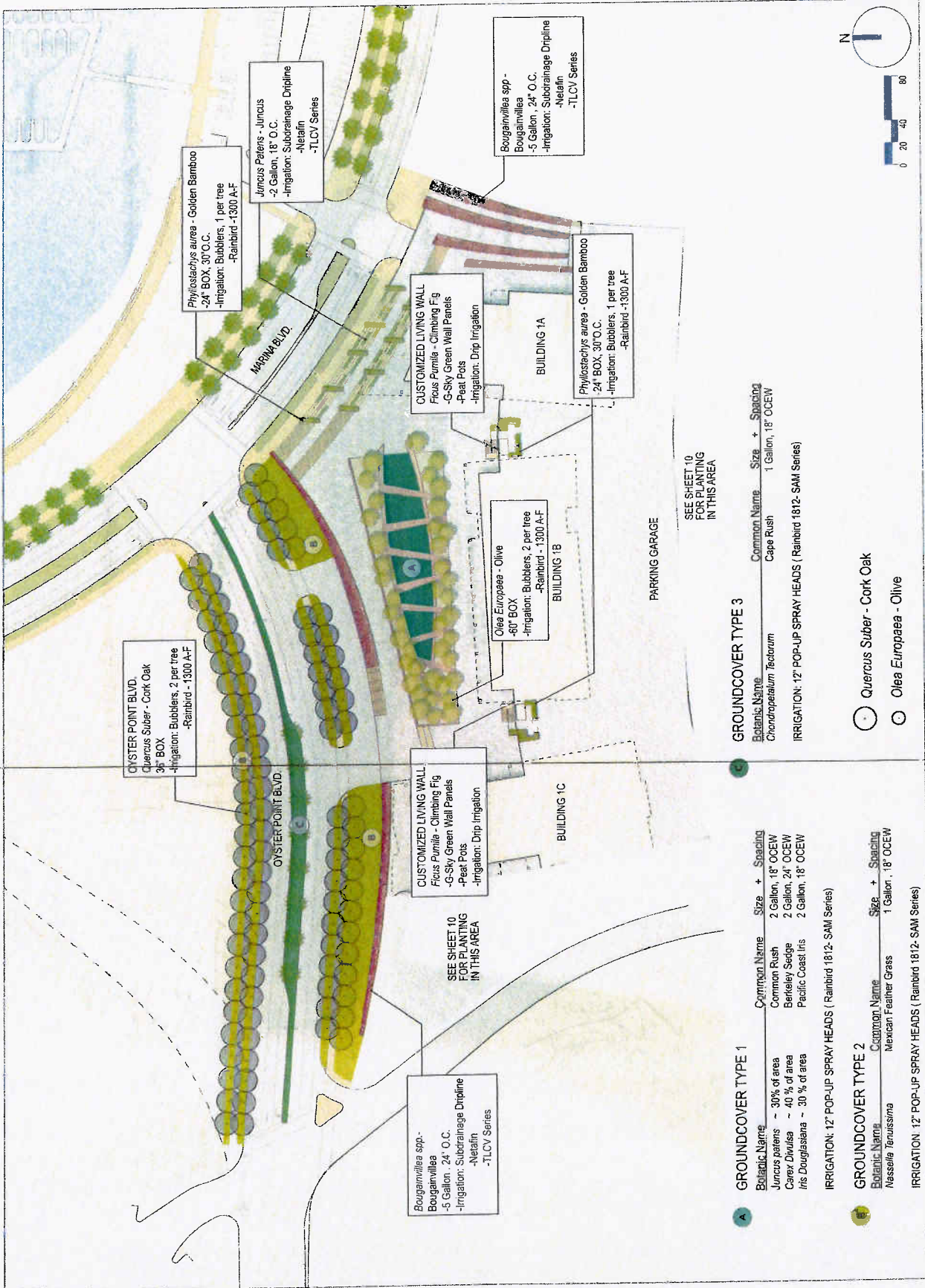
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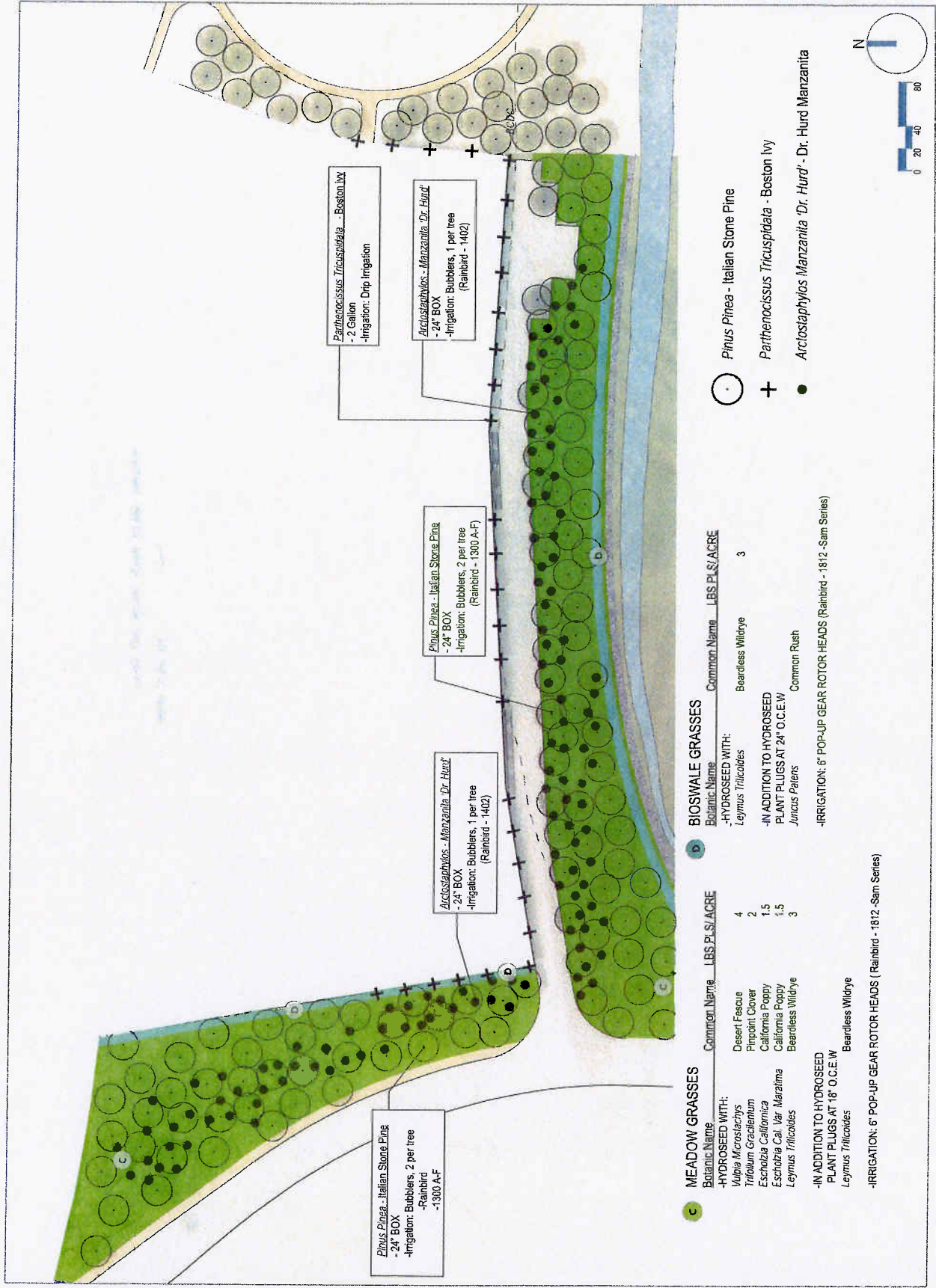




- 1 CENTRAL PLAZA
- 2 GRAND STAIRS
- 3 PEDESTRIAN ACCESS RAMP
- 4 STADIUM SEATS & PLANTERS
- 5 MARINA BOULEVARD STREETSCAPE
- 6 FORESTED EDGE
- 7 SHUTTLE/ PASSENGER DROP OFF
- 8 OYSTER POINT BOULEVARD STREETSCAPE







**C MEADOW GRASSES**

Botanic Name	Common Name	LBS PLS./ACRE
<i>Vilpja Microstachys</i>	Desert Fescue	4
<i>Trifolium Gracilentum</i>	Pinpoint Clover	2
<i>Escholzia Californica</i>	California Poppy	1.5
<i>Escholzia Cal. Var. Marzima</i>	California Poppy	1.5
<i>Leymus Trilicoides</i>	Beardless Wildrye	3

-IN ADDITION TO HYDROSEED  
PLANT PLUGS AT 18" O.C.E.W  
*Leymus Trilicoides*

-IRRIGATION: 6" POP-UP GEAR ROTOR HEADS (Rainbird - 1812 -Sam Series)

**D BIOSWALE GRASSES**

Botanic Name	Common Name	LBS PLS./ACRE
<i>Leymus Trilicoides</i>	Beardless Wildrye	3

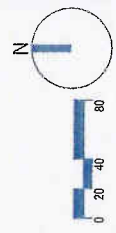
-IN ADDITION TO HYDROSEED  
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*Juncus Palens*

-IRRIGATION: 6" POP-UP GEAR ROTOR HEADS (Rainbird - 1812 -Sam Series)

○ Pinus Pinna - Italian Stone Pine

+ Parthenocissus Tricuspidata - Boston Ivy

● Arctostaphylos Manzanita 'Dr. Hurd' - Dr. Hurd Manzanita



**CONCEPT DESIGN  
PLANTING REFERENCE IMAGES**

**TREES**

Botanic Name	Common Name
1. <i>Quercus suber</i>	Cork Oak
2. <i>Olea europaea</i> 'Swan Hill'	Swan Hill Olive
3. <i>Pinus Pinea</i>	Italian Stone Pine



**SHRUBS**

Botanic Name	Common Name
4. <i>Arctostaphylos m. 'Dr. Hurd'</i>	Dr. Hurd Manzanita
5. <i>Phyllostachys aurea</i>	Golden Bamboo



**VINES**

Botanic Name	Common Name
6. <i>Bougainvillea</i> spp.	Bougainvillea
7. <i>Parthenocissus Tricuspidata</i>	Boston Ivy
8. <i>Ficus Pumila</i>	Climbing Fig



**GRASSES + PERENNIALS**

Botanic Name	Common Name
9. <i>Iris Douglasiana</i>	Pacific Coast Iris
10. <i>Carex divulsa</i>	Berkeley Sedge
11. <i>Juncus patens</i>	Common Rush
12. <i>Nassella Tenuissima</i>	Mexican Feather Grass
13. <i>Escholzia Californica</i>	California Poppy
14. <i>Leymus Triticoides</i>	Beardless Wildrye
15. <i>Tritilium Gracilentum</i>	Pinpoint Clover
16. <i>Vulpia Microstachys</i>	Desert Fescue



13.

14.

15.

16.

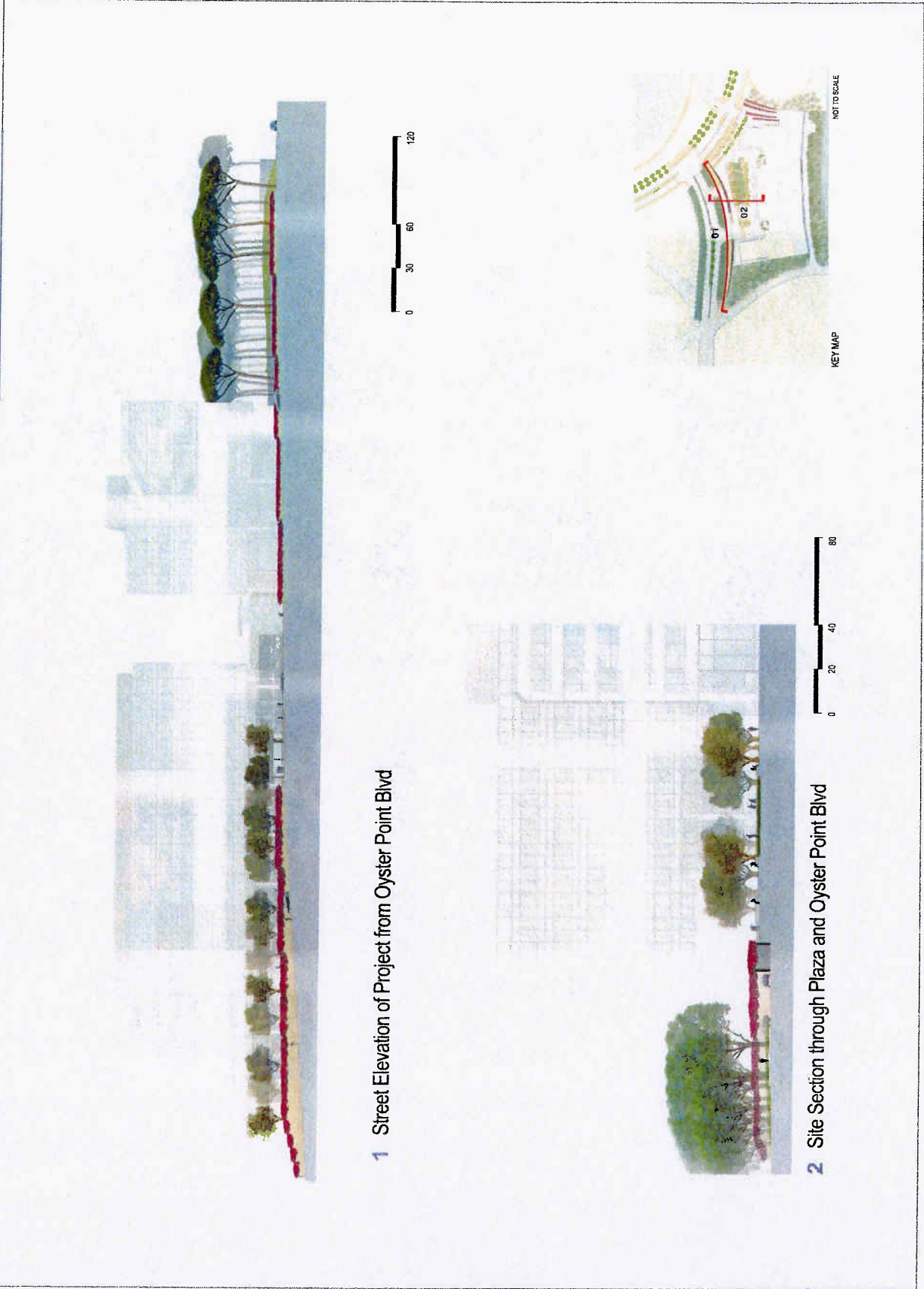
**Planting Palette at Office/R&D Campus**

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Phase I Precise Plan  
OYSTER POINT, South San Francisco



Perkins + Will  
Meyer-Siberberg  
Wilsey Ham  
ARUP  
HDR Engineering  
IPD  
Treatwell & Rollo



1 Street Elevation of Project from Oyster Point Blvd

2 Site Section through Plaza and Oyster Point Blvd

# Landscape Site Elevations & Sections

OYSTER POINT, South San Francisco  
Phase I Precise Plan

PeKins+Will  
Meyer-Silberberg  
Wisley Han  
ARUP  
HDR Engineering  
IPD  
Treadwell & Rollo

13



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1 Elevation Gateway Feature Wall

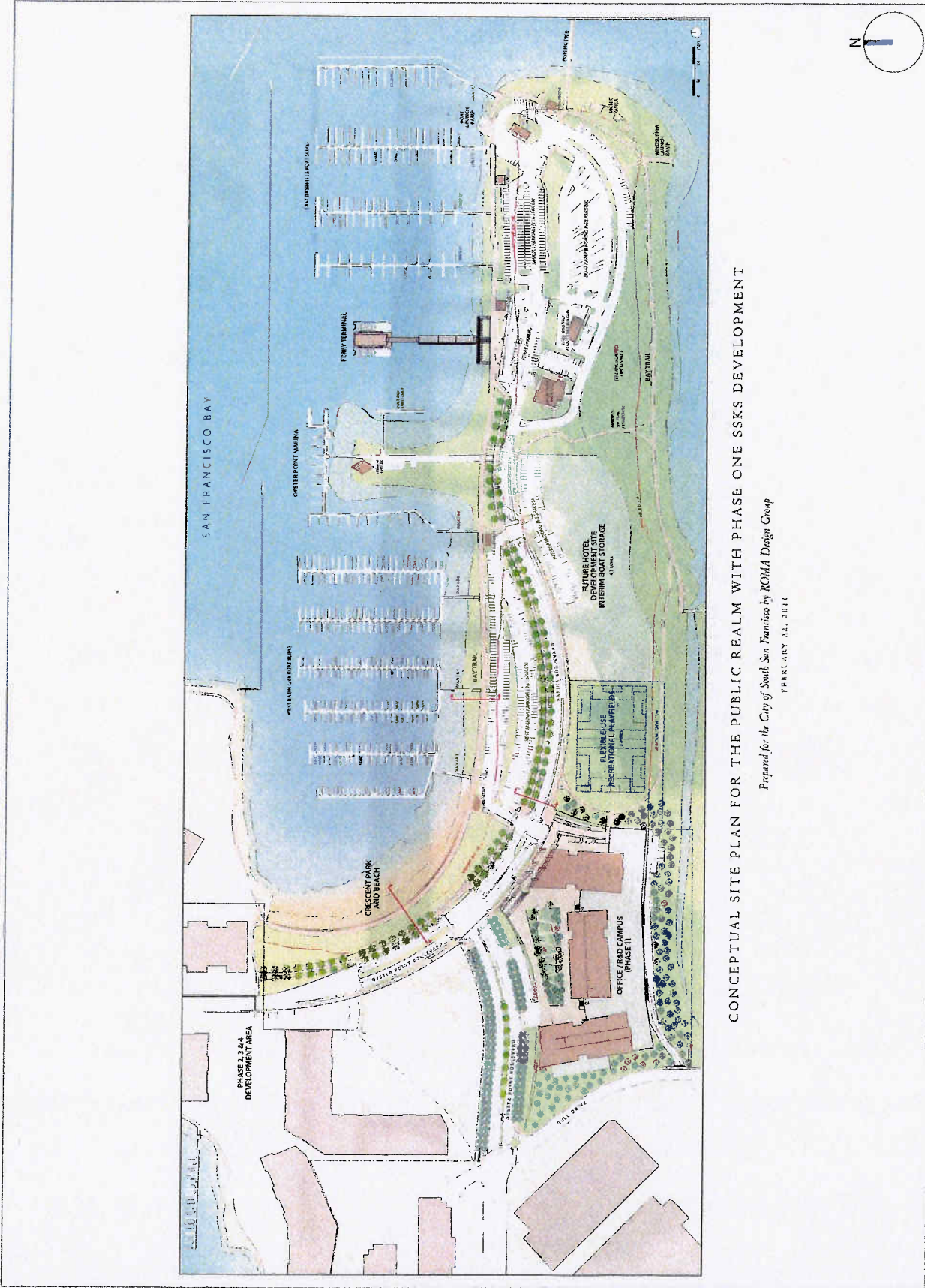


DRAFT February 23, 2011

# Phase I Conceptual Site Plan for the Public Realm

Prepared for the City of South San Francisco  
Concept Design for the Public Realm

ROMA Design Group



## CONCEPTUAL SITE PLAN FOR THE PUBLIC REALM WITH PHASE ONE SSKS DEVELOPMENT

Prepared for the City of South San Francisco by ROMA Design Group

FEBRUARY 22, 2011



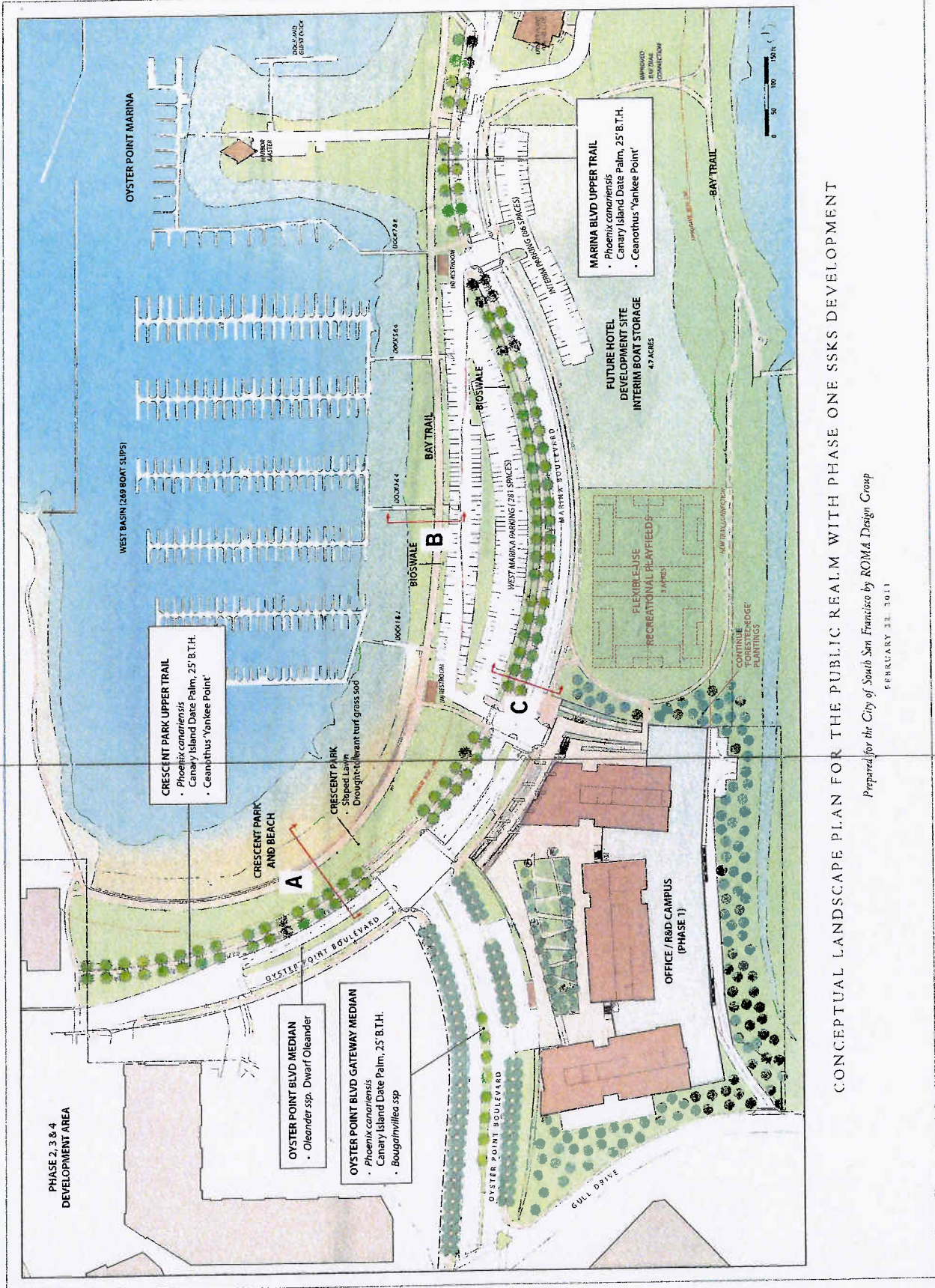


DRAFT February 23, 2011

# Phase I Conceptual Landscape Plan for the Public Realm

Prepared for the City of South San Francisco  
 Concept Design for the Public Realm

ROMA Design Group



CONCEPTUAL LANDSCAPE PLAN FOR THE PUBLIC REALM WITH PHASE ONE SSKS DEVELOPMENT

Prepared for the City of South San Francisco by ROMA Design Group

FEBRUARY 23, 2011



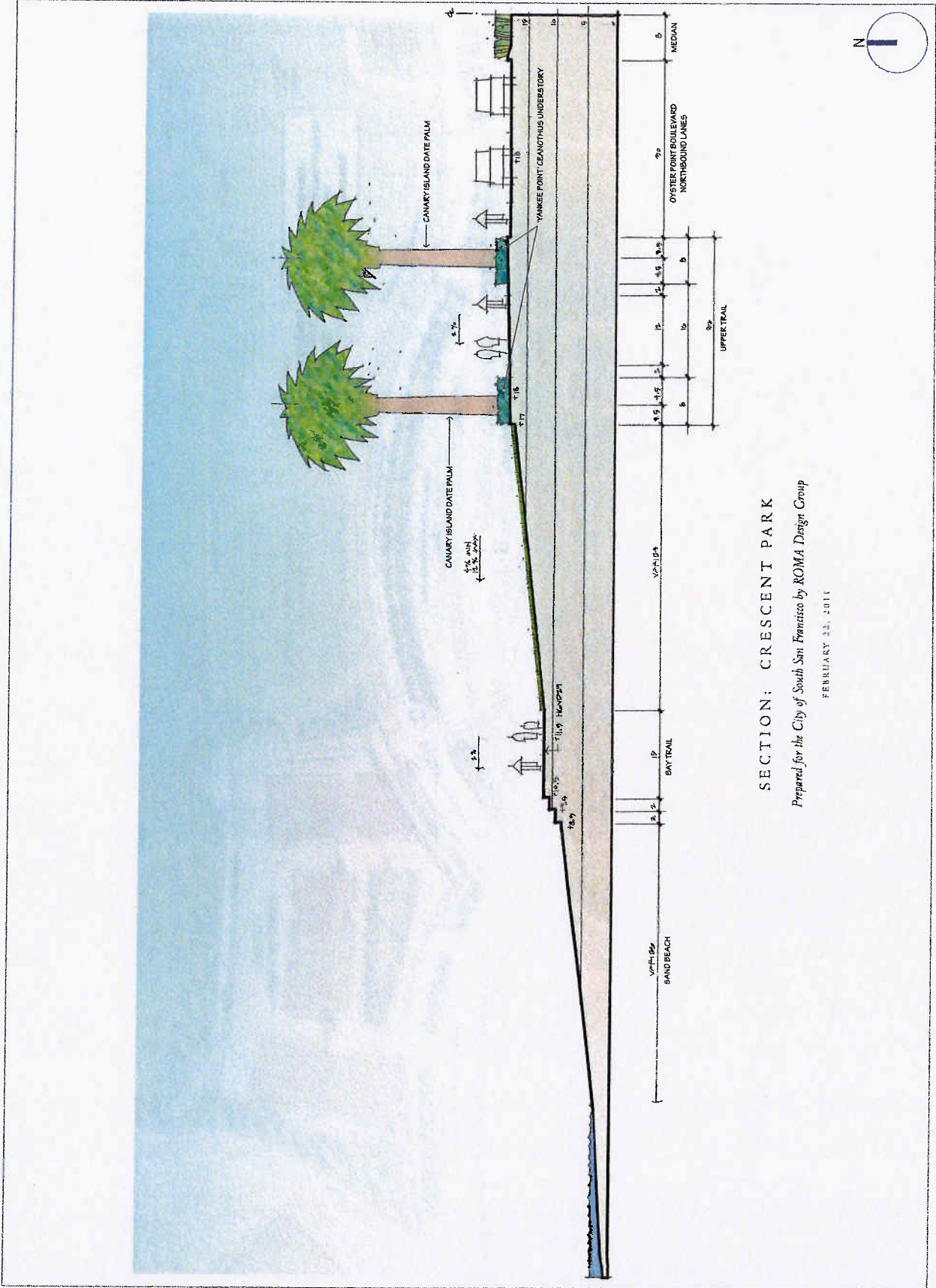
DRAFT February 23, 2011

# Bay Trail at Crescent Park

Prepared for the City of South San Francisco  
Concept Design for the Public Realm

ROMA Design Group

17A



## SECTION: CRESCENT PARK

Prepared for the City of South San Francisco by ROMA Design Group

FEBRUARY 22, 2011





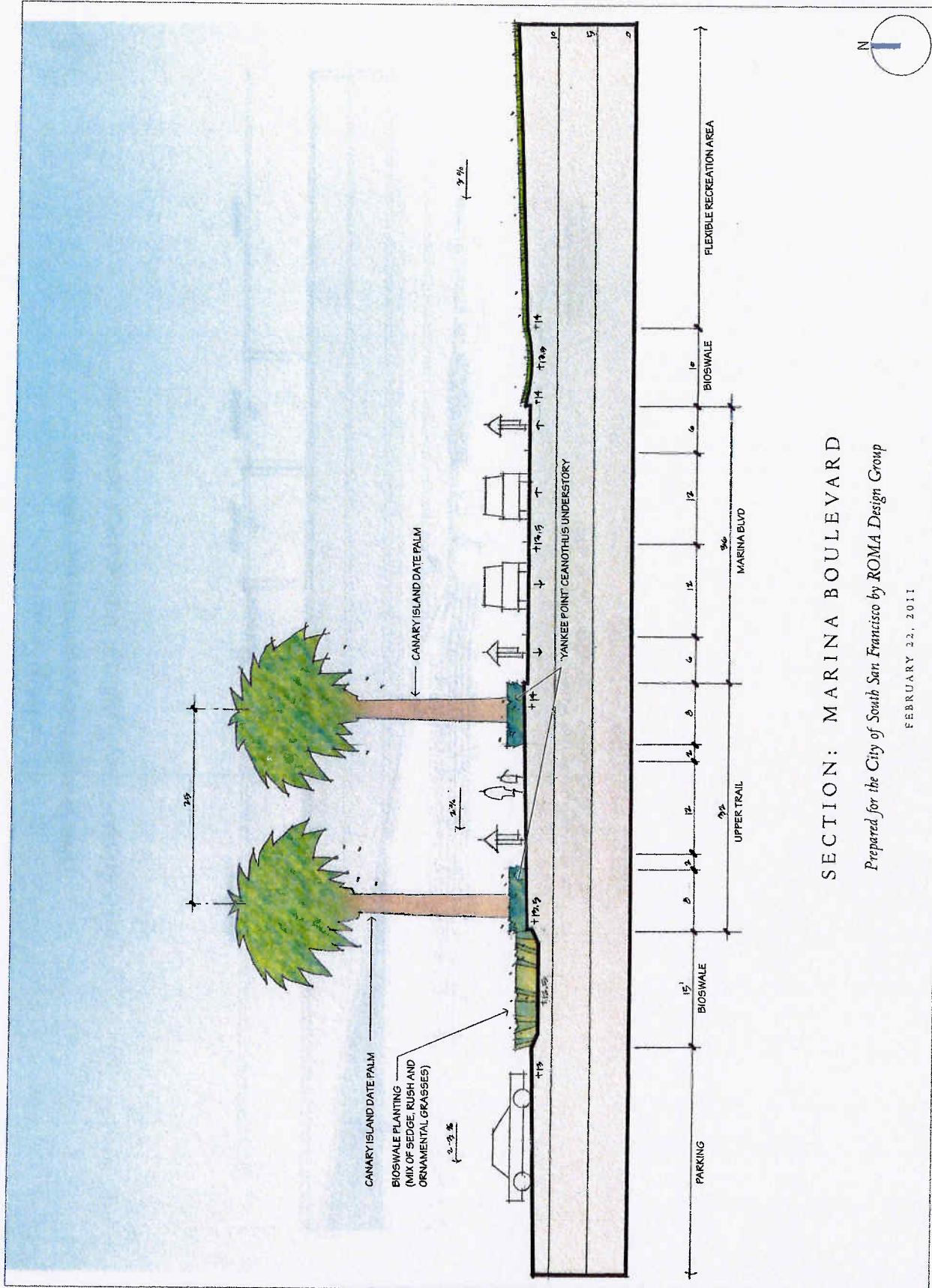
DRAFT February 23, 2011

Prepared for the City of South San Francisco  
Concept Design for the Public Realm

Marina Blvd

ROMA Design Group

17C



### SECTION: MARINA BOULEVARD

Prepared for the City of South San Francisco by ROMA Design Group

FEBRUARY 22, 2011



DRAFT February 23, 2011

# Planting Palette for the Public Realm

Prepared for the City of South San Francisco  
 Concept Design for the Public Realm

ROMA Design Group

 <p><b>Boswale Storm Water Treatment</b>        (Mix of sedges and rushes adjacent to marina parking area)</p>	 <p><b>Bougainvillea 'San Diego Red'</b>        (Understory planting in Oyster Pt. Blvd. gateway median)</p>	 <p><b>Ceanothus 'Yankee Point'</b>        (Understory planting on both sides of the Upper Trail)</p>	 <p><b>Dwarf Pink, Red and White Oleander</b>        (Median planting on Oyster Pt. Blvd. adjacent to Crescent Park)</p>	 <p><b>Canary Island Date Palm</b> (At Upper Trail adjacent to Marina Blvd. and Crescent Park and in the gateway median of Oyster Pt. Blvd.)</p>	 <p><b>Sloped Lawn and Beach</b> (At Crescent Park)</p>		
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PRECEDENTS FOR THE PUBLIC REALM: PLANTING

## Oyster Point Redevelopment Master Plan

Prepared for the City of South San Francisco by ROMA Design Group

FEBRUARY 23, 2011



DRAFT February 23, 2011

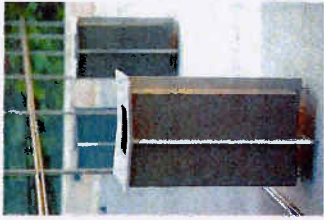
# Site Furniture for the Public Realm

Prepared for the City of South San Francisco  
Concept Design for the Public Realm

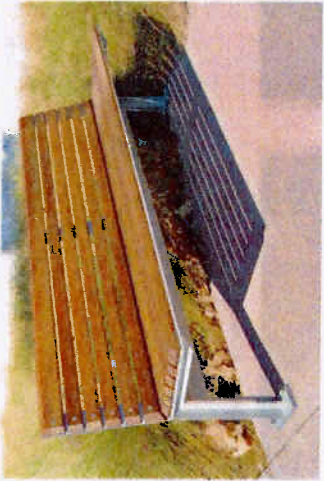
ROMA Design Group



Ornamental Metal Picket Fence (At interim boat storage)



Trash Receptacle (At public open spaces)



Bench, 'Knight' by Forms+Surfaces (On Bay Trail and Upper Trail, where appropriate)



Street Lighting, 'Pechina' by Holophone (At public streets and parking areas)



Stepped Beach Edge (At Crescent Park Beach)



Integral Color Asphalt Ped/Bike Pathway (At palm-lined Upper Trail)

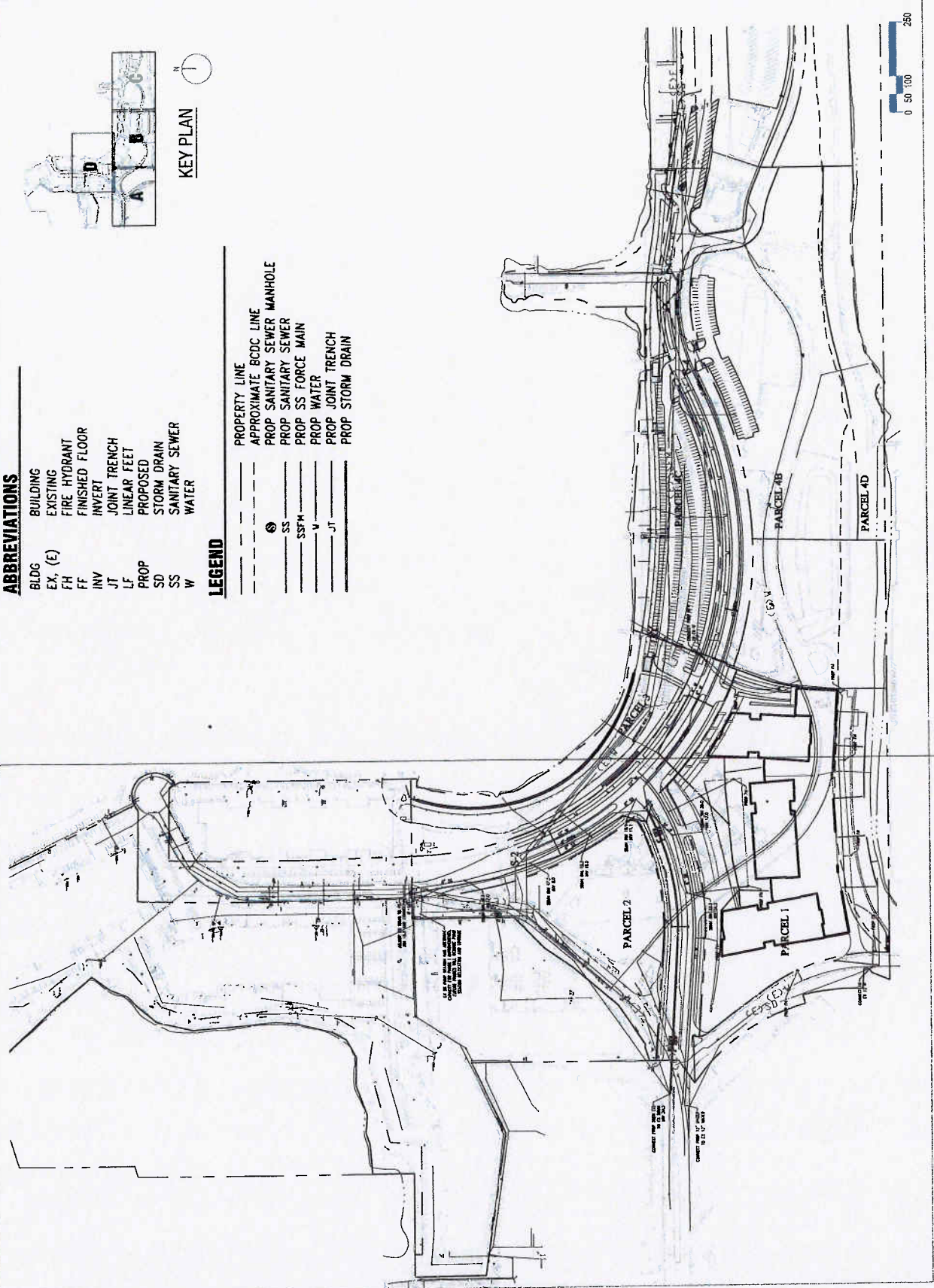


PRECEDENTS FOR THE PUBLIC REALM: SITE FURNISHINGS AND PAVING

## Oyster Point Redevelopment Master Plan

Prepared for the City of South San Francisco by ROMA Design Group

FEBRUARY 22, 2011

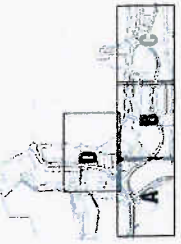


**ABBREVIATIONS**

- BLDG BUILDING
- EX, (E) EXISTING
- FH FIRE HYDRANT
- FF FINISHED FLOOR
- INV INVERT
- JT JOINT TRENCH
- LF LINEAR FEET
- PROP PROPOSED
- SD STORM DRAIN
- SS SANITARY SEWER
- W WATER

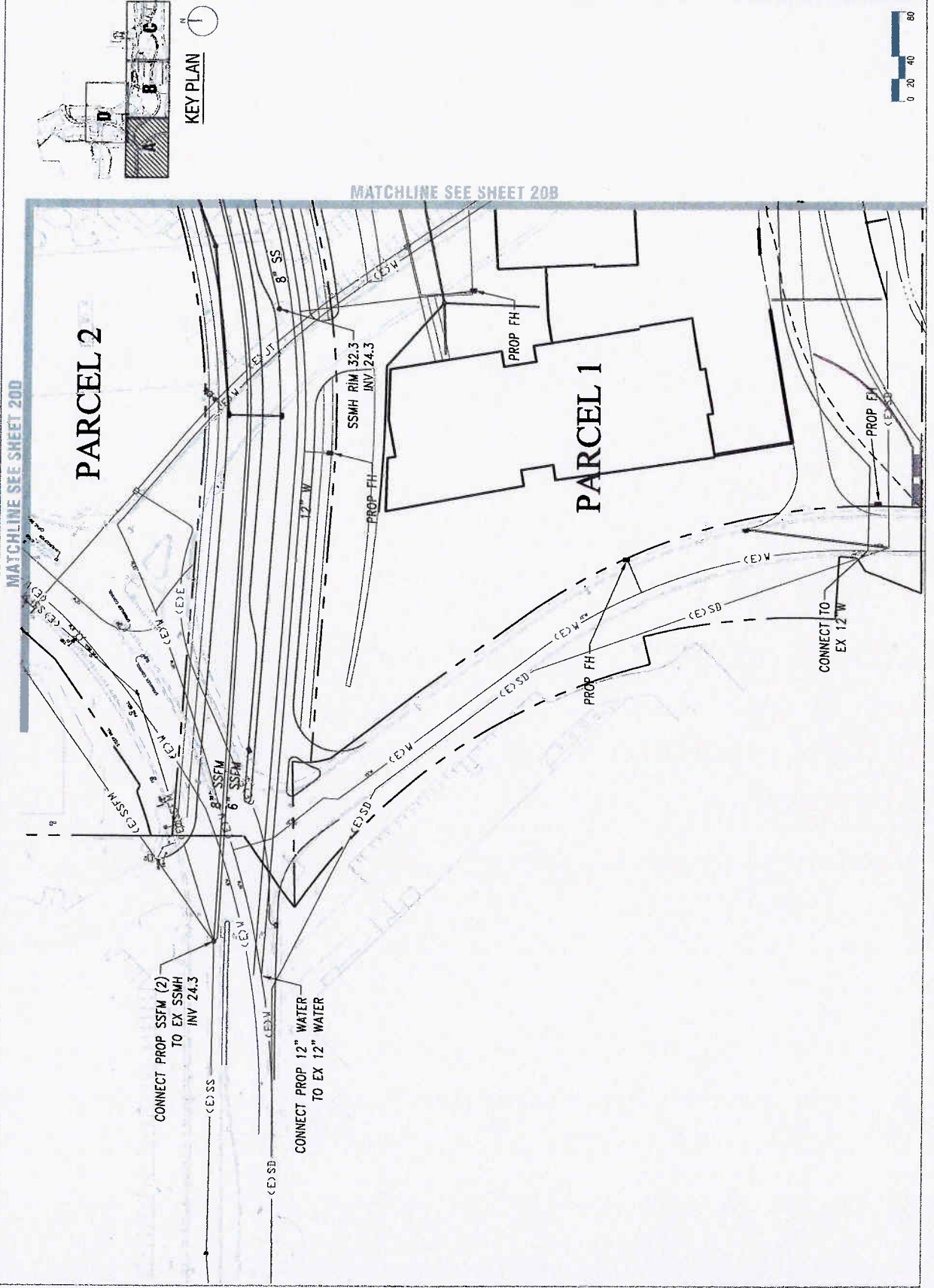
**LEGEND**

- PROPERTY LINE
- - - APPROXIMATE BCDC LINE
- ⊙ PROP SANITARY SEWER MANHOLE
- SS PROP SANITARY SEWER
- SSFM PROP SS FORCE MAIN
- W PROP WATER
- JT PROP JOINT TRENCH
- PROP JOINT TRENCH
- PROP STORM DRAIN



KEY PLAN

0 50 100 250









SKS Investments

Investments

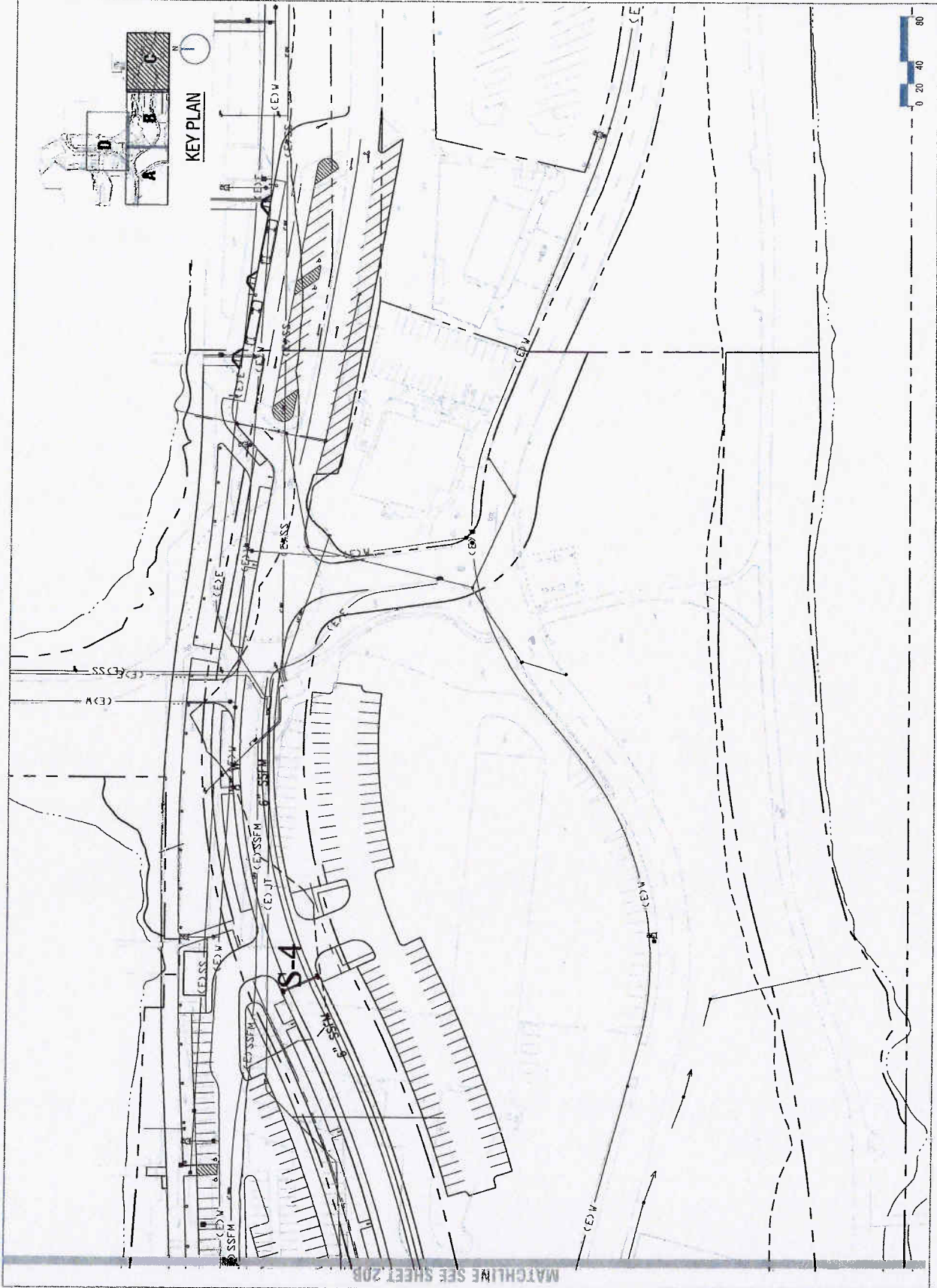
DRAFT February 23, 2011

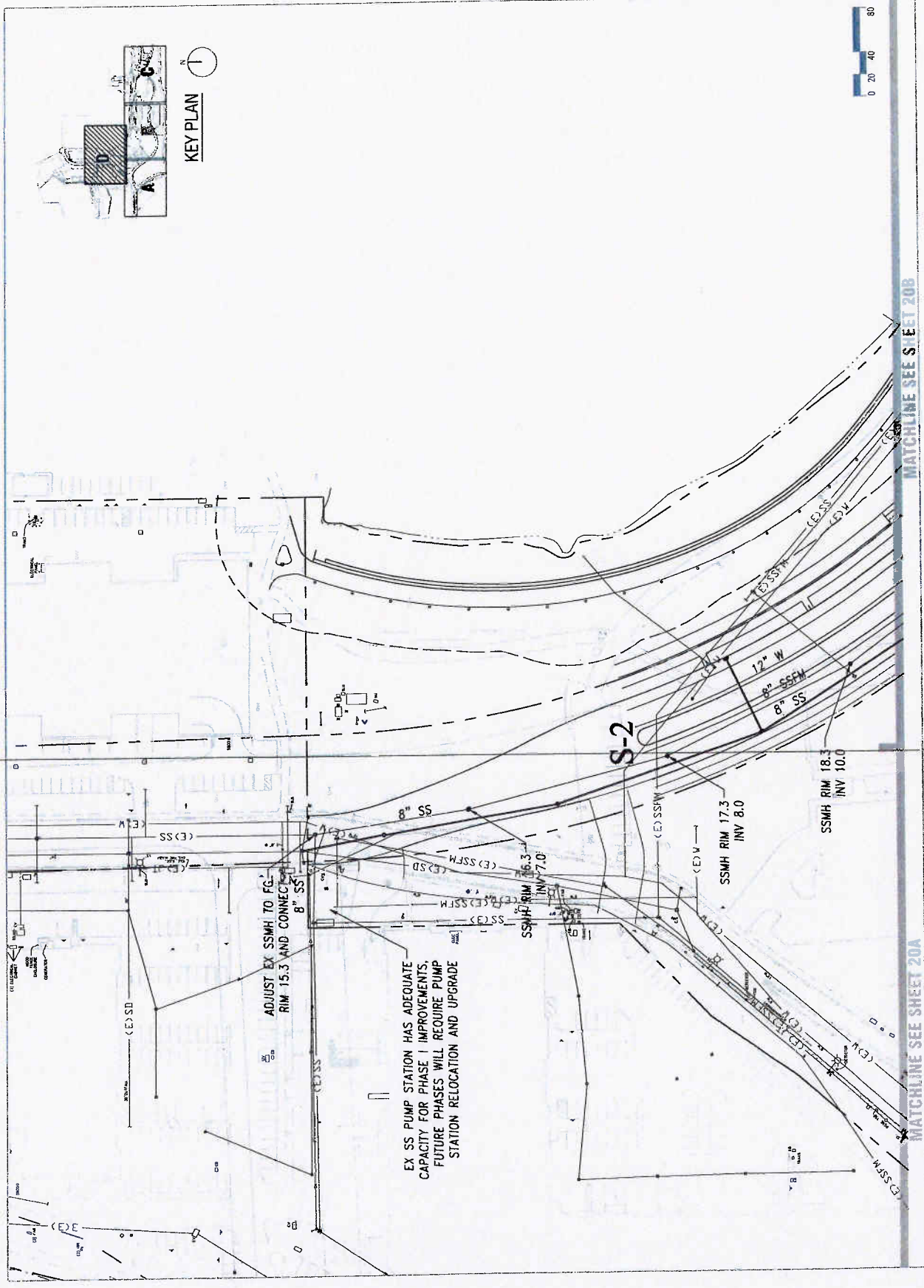
# Phase I Utility Plan

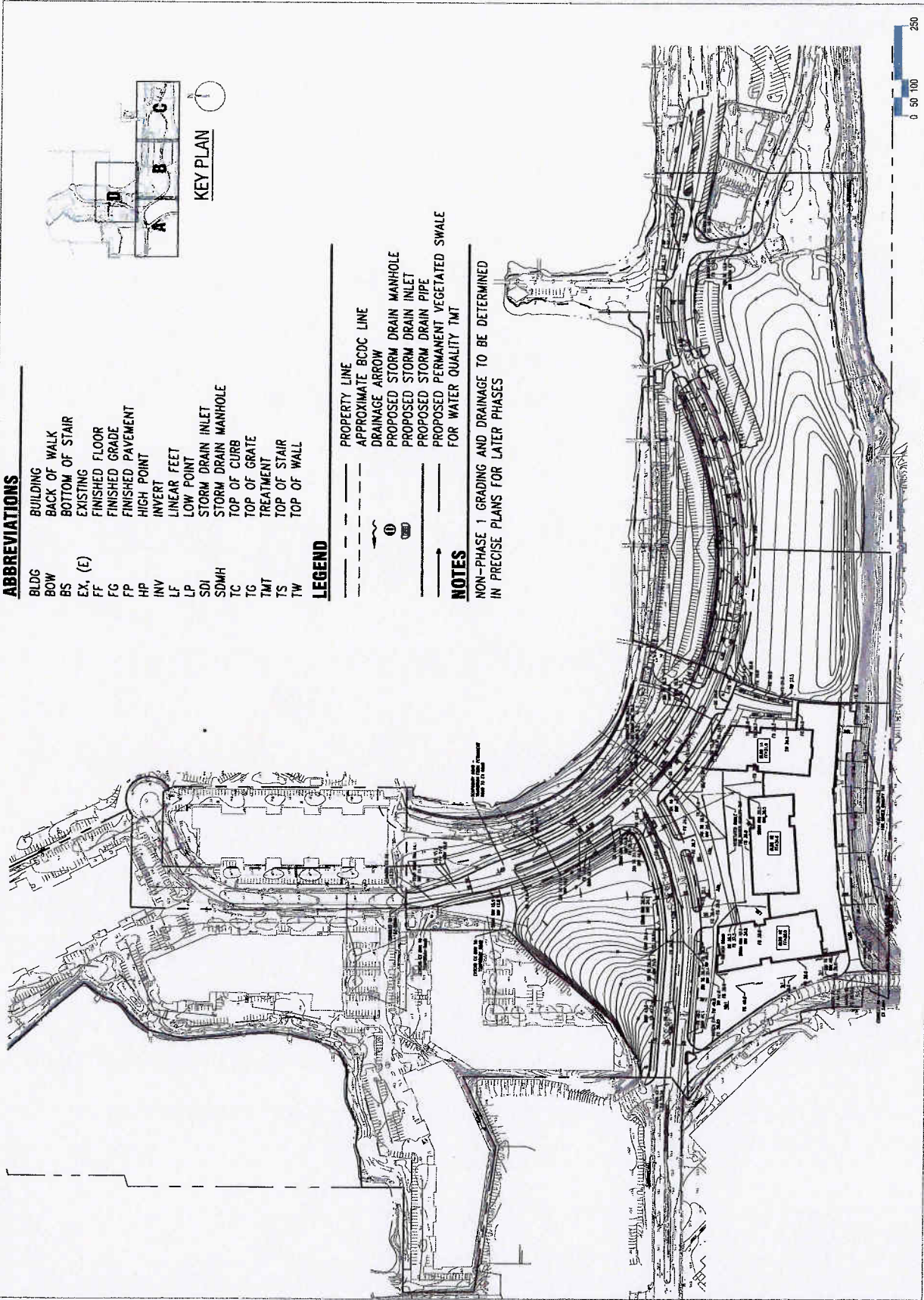
OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Meyer+Silberg  
Wilsey Ham  
ARUP  
HDR Engineering  
PD  
Treadwell & Rollo

# 20C







# Grading & Drainage Plan

OYSTER POINT, South San Francisco  
 Phase I Precise Plan

Perkins+Will  
 Meyer-Silberberg  
 Wilsey-Hart  
 ARUP  
 HDR Engineering  
 IPT  
 Treadwell & Rollo

## 21A

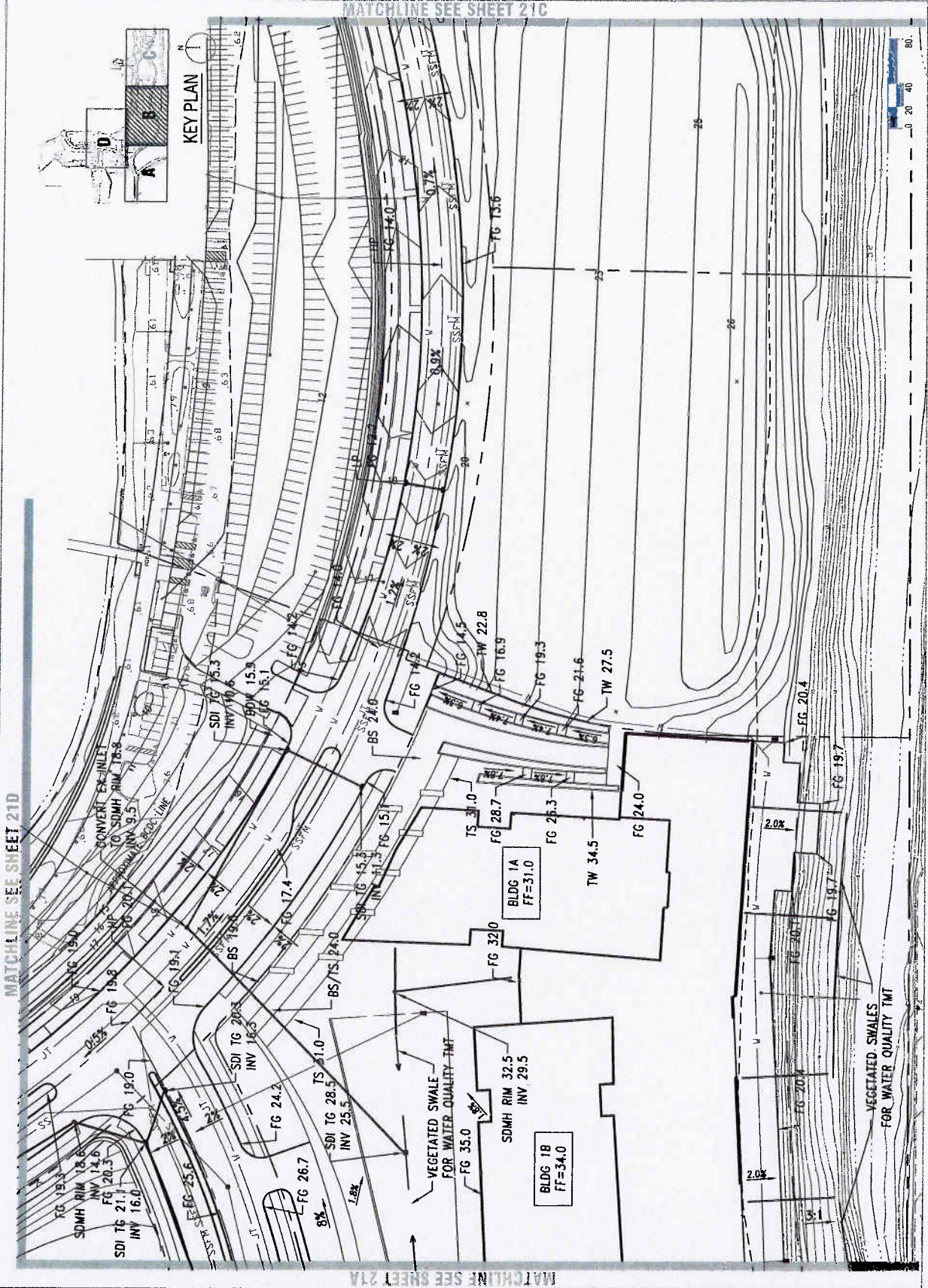


# Grading & Drainage Plan

OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Meyer+Stribling  
Wilsey Han  
ARUP  
HDR Engineering  
IPD  
Treadwell & Rolfe

## 21B

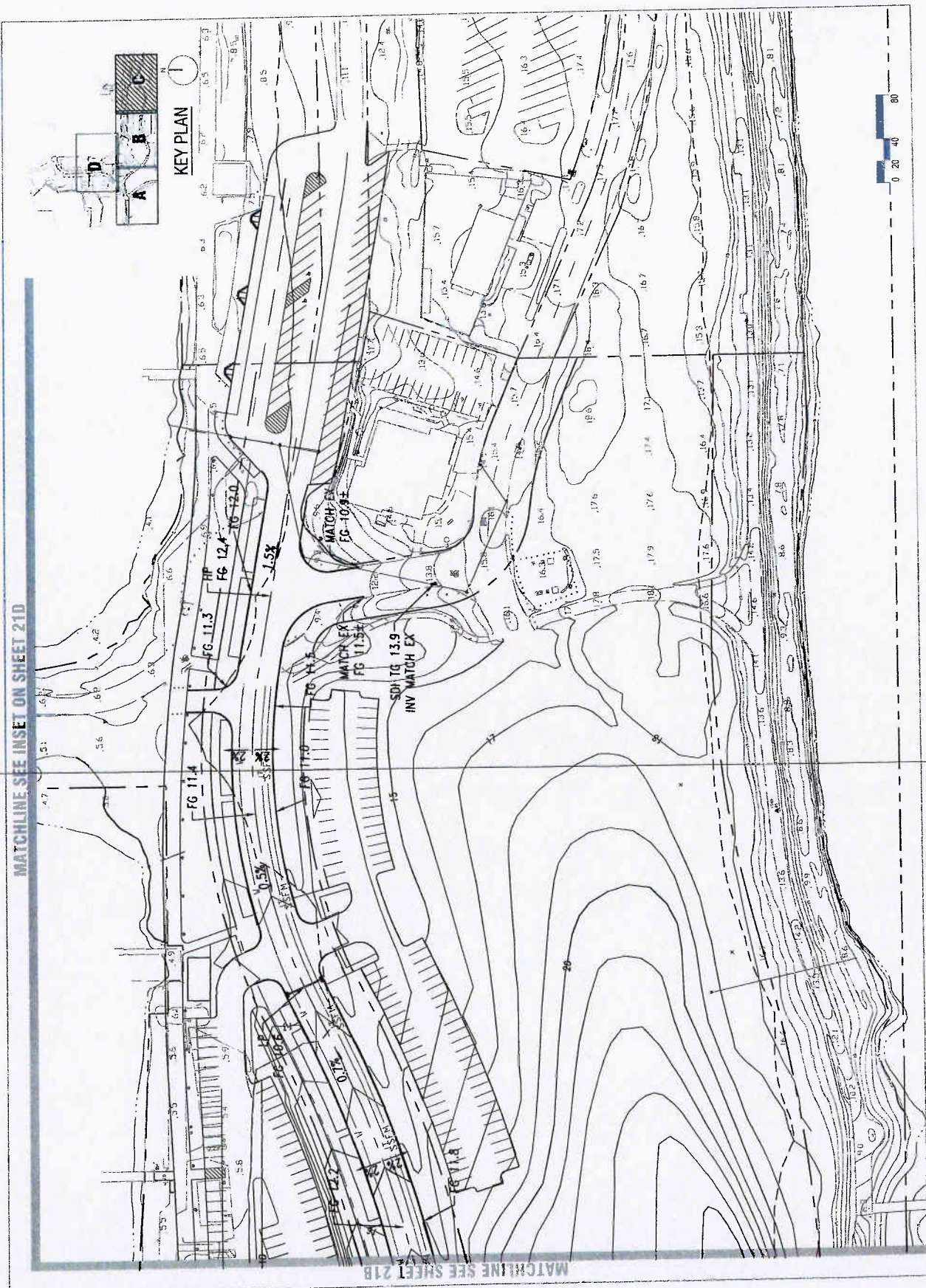


# Grading & Drainage Plan

Phase I Precise Plan  
 OYSTER POINT, South San Francisco

Perkins+Will  
 Mayer Silberg  
 Walsby Ham  
 ARUP  
 HDR Engineering  
 JPD  
 Treadwell & Rollo

## 21C

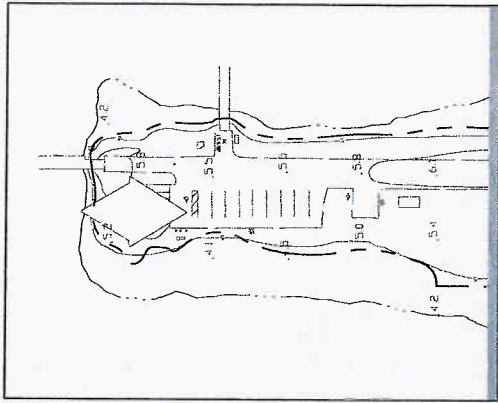
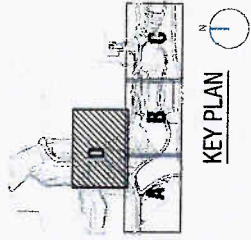
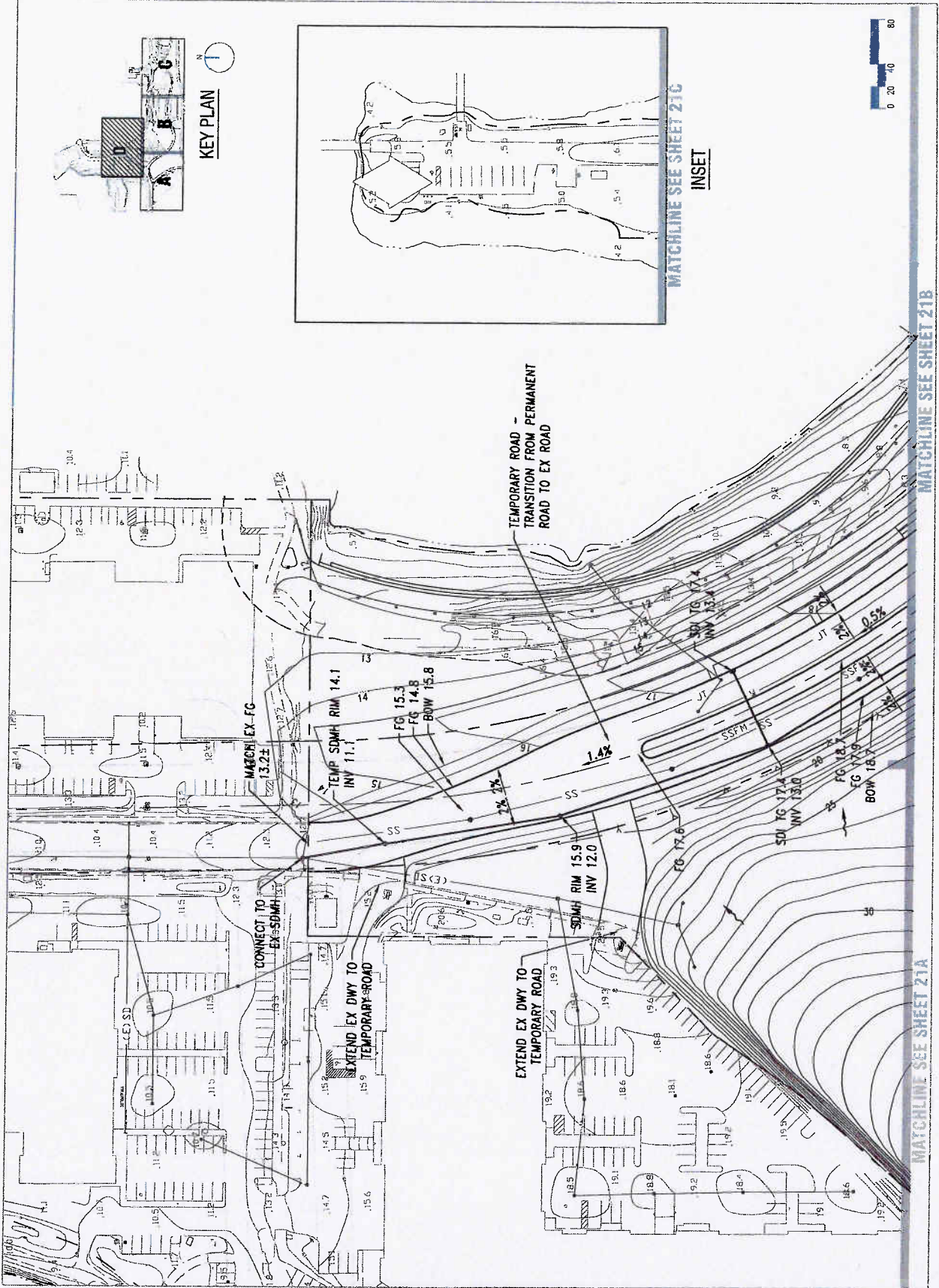


# Grading & Drainage Plan

OYSTER POINT, South San Francisco  
 Phase I Precise Plan

Perkins+Will  
 Meyers-Siebert  
 Wilsey Ham  
 ARUP  
 HDR Engineering  
 IPD  
 Treatwell & Rolio

**21D**



MATCHLINE SEE SHEET 21C

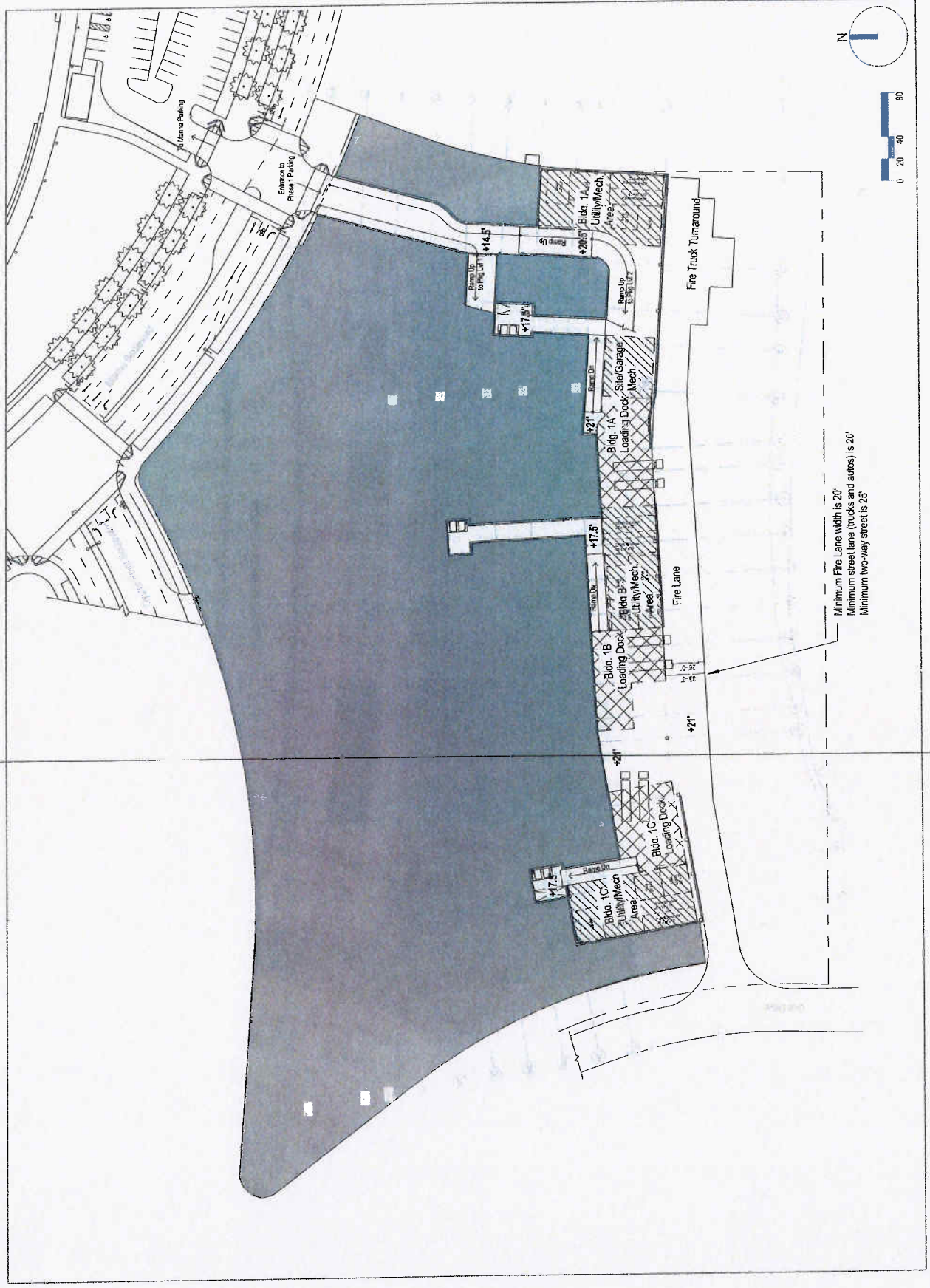
MATCHLINE SEE SHEET 21B



MATCHLINE SEE SHEET 21B

MATCHLINE SEE SHEET 21A

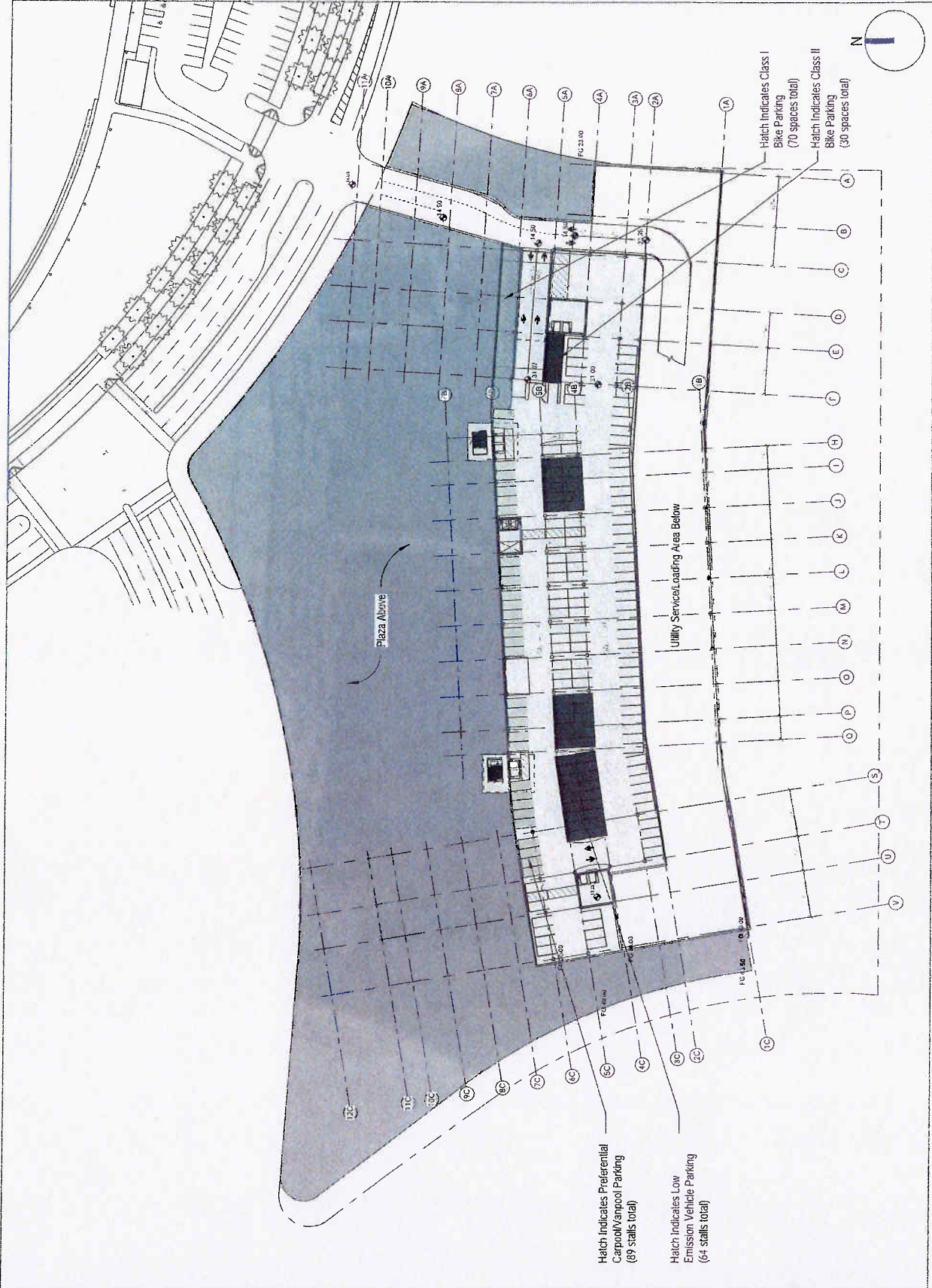




# First Parking Level Plan

OYSTER POINT, South San Francisco  
 Phase I Precise Plan

Perkins+Will  
 Meyer-Sillberg  
 Wilsey Han  
 ARUP  
 HDR Engineering  
 IPD  
 Treadwell & Rollo



Hatch Indicates Preferential  
 Carpool/Vanpool Parking  
 (89 stalls total)

Hatch Indicates Low  
 Emission Vehicle Parking  
 (64 stalls total)

Hatch Indicates Class I  
 Bike Parking  
 (70 spaces total)

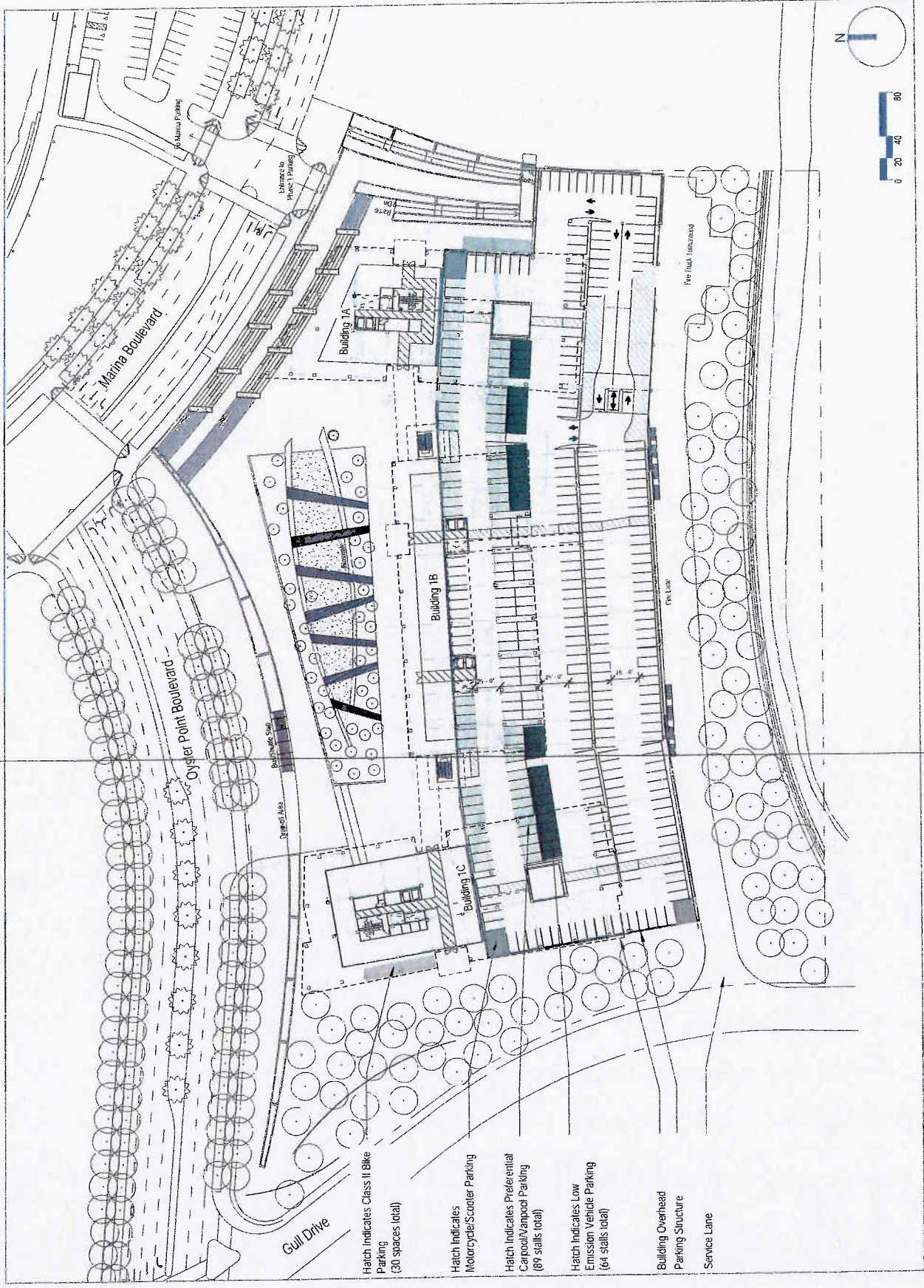
Hatch Indicates Class II  
 Bike Parking  
 (30 spaces total)

Plaza Level/Second Parking Level Plan

OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Meyer+Stuberberg  
Wilsey Ham  
ARUP  
HDR Engineering  
JPD  
Treadwell & Rello

24



Hatch Indicates Class II Bike Parking (30 spaces total)

Hatch Indicates Motorcycle/Scooter Parking

Hatch Indicates Preferential Carpool/Vanpool Parking (89 stalls total)

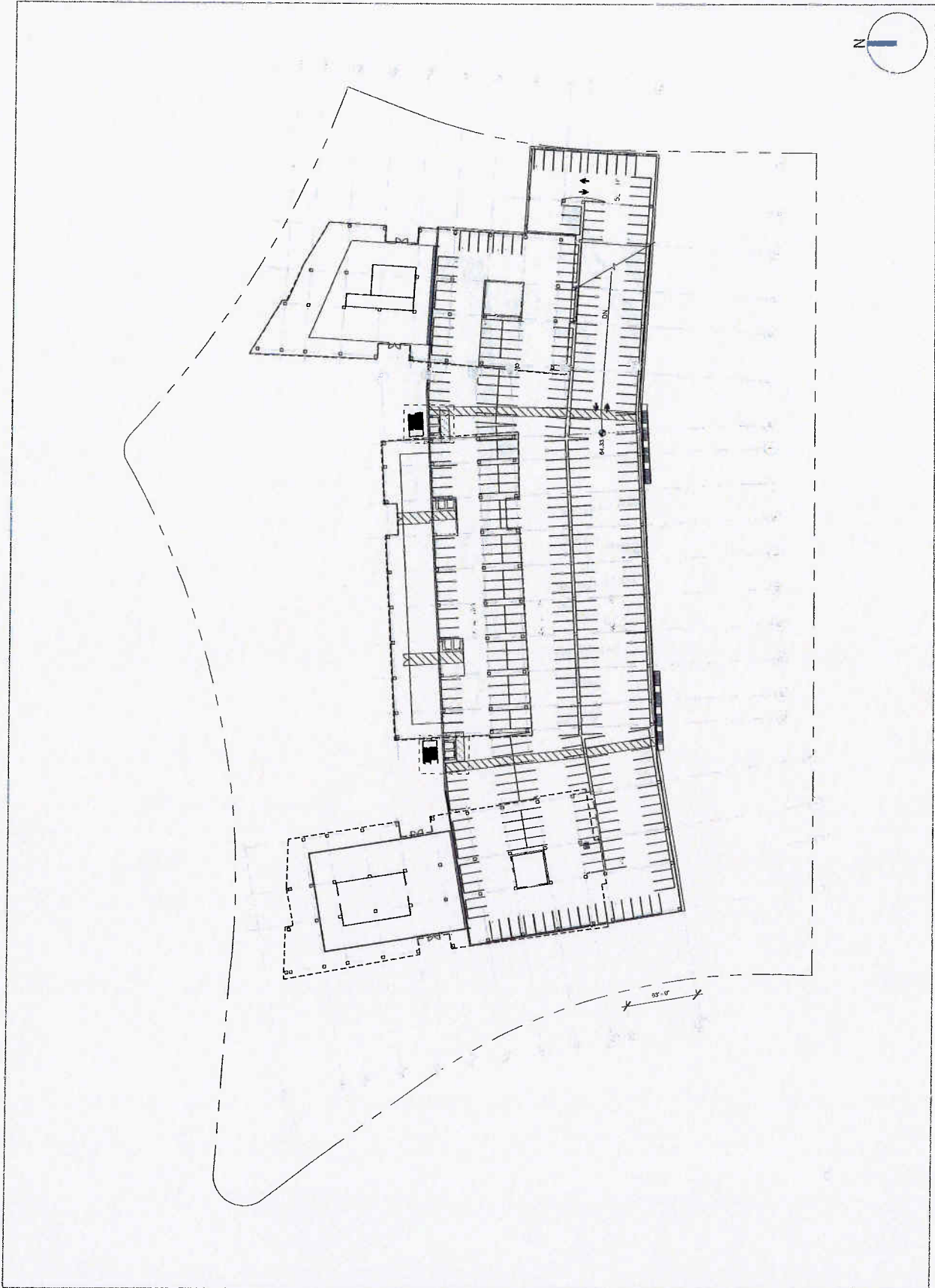
Hatch Indicates Low Emission Vehicle Parking (64 stalls total)

Building Overhead Parking Structure  
Service Lane

# Third Parking Level Plan

OYSTER POINT, South San Francisco  
 Phase 1 Precise Plan

Parsons+Will  
 Meyer+Stiberburg  
 Wilsey Ham  
 ARUP  
 HDR Engineering  
 IPD  
 Treadwell & Rollo



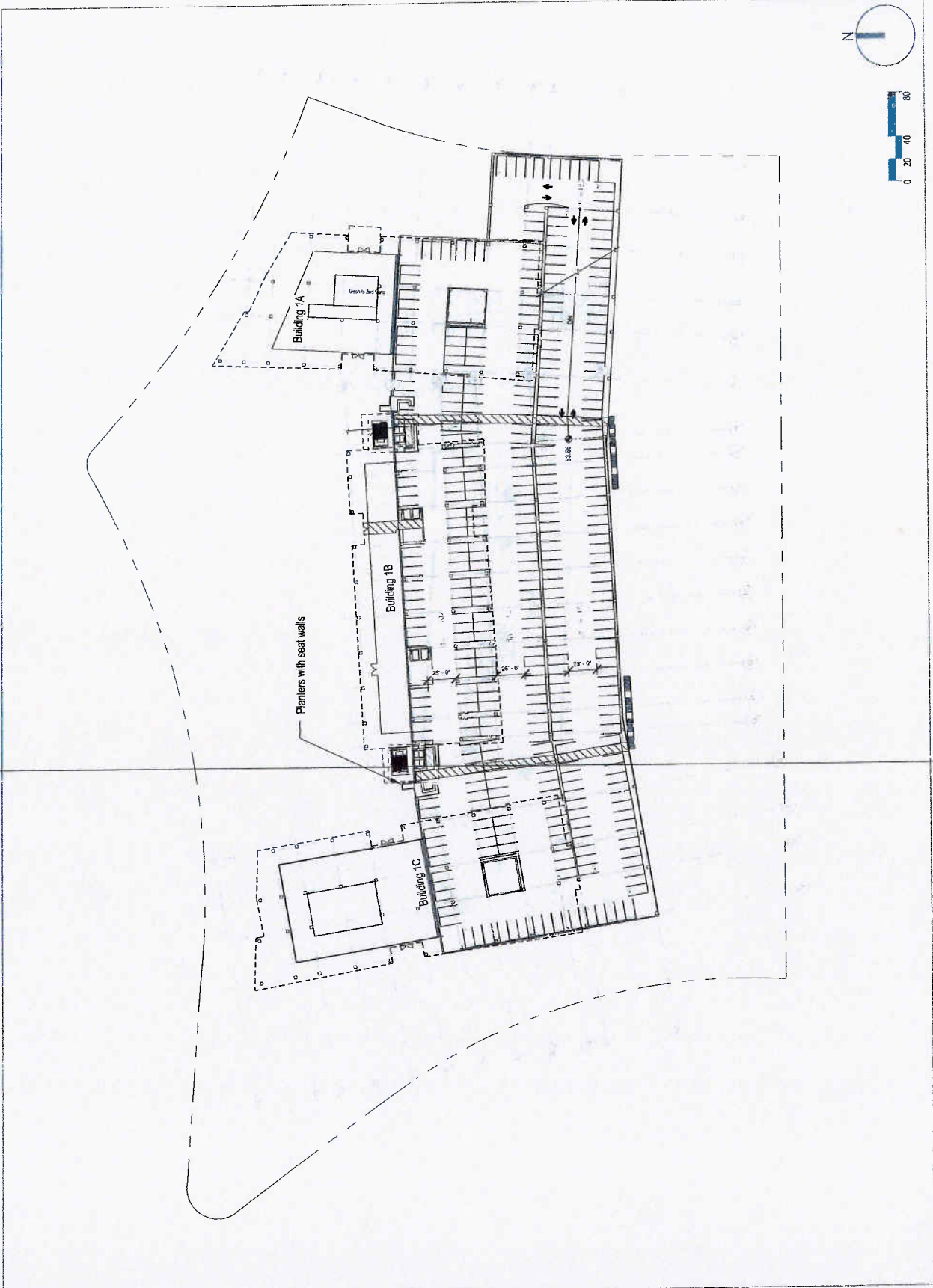
# Fourth Parking Level Plan (Garage Roof)

DRAFT February 23, 2011

OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Wil  
Kryger/Silberberg  
Wilsey Ham  
ARUP  
HDR Engineering  
IPD  
Treadwell & Rollo

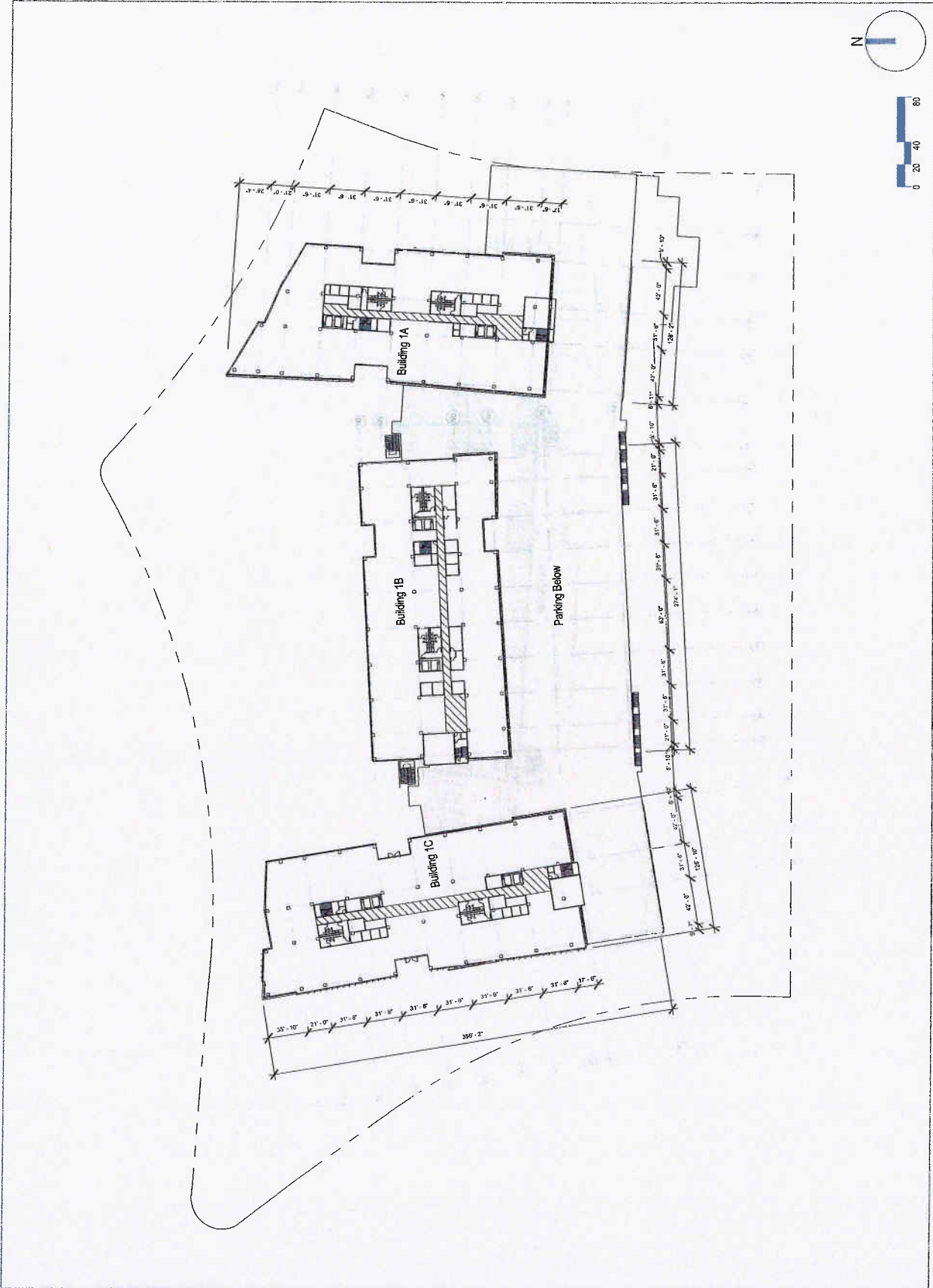
26

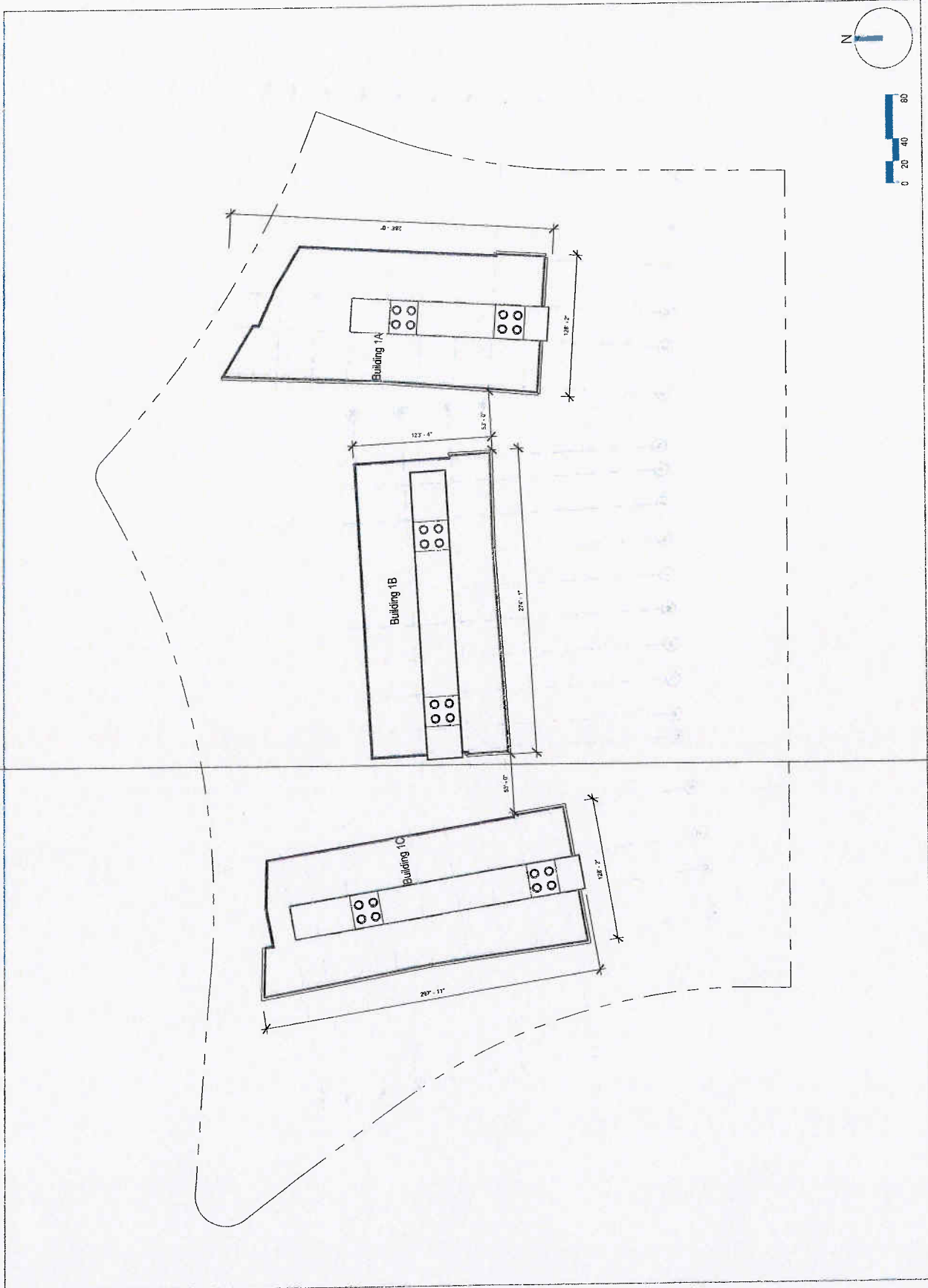


# Typical Floor Level Plan

OYSTER POINT, South San Francisco  
 Phase I Precise Plan

Perkins+Will  
 Meyer+Silberg  
 Wisley Ham  
 ARUP  
 HDR Engineering  
 IPD  
 Treadwell & Rollo

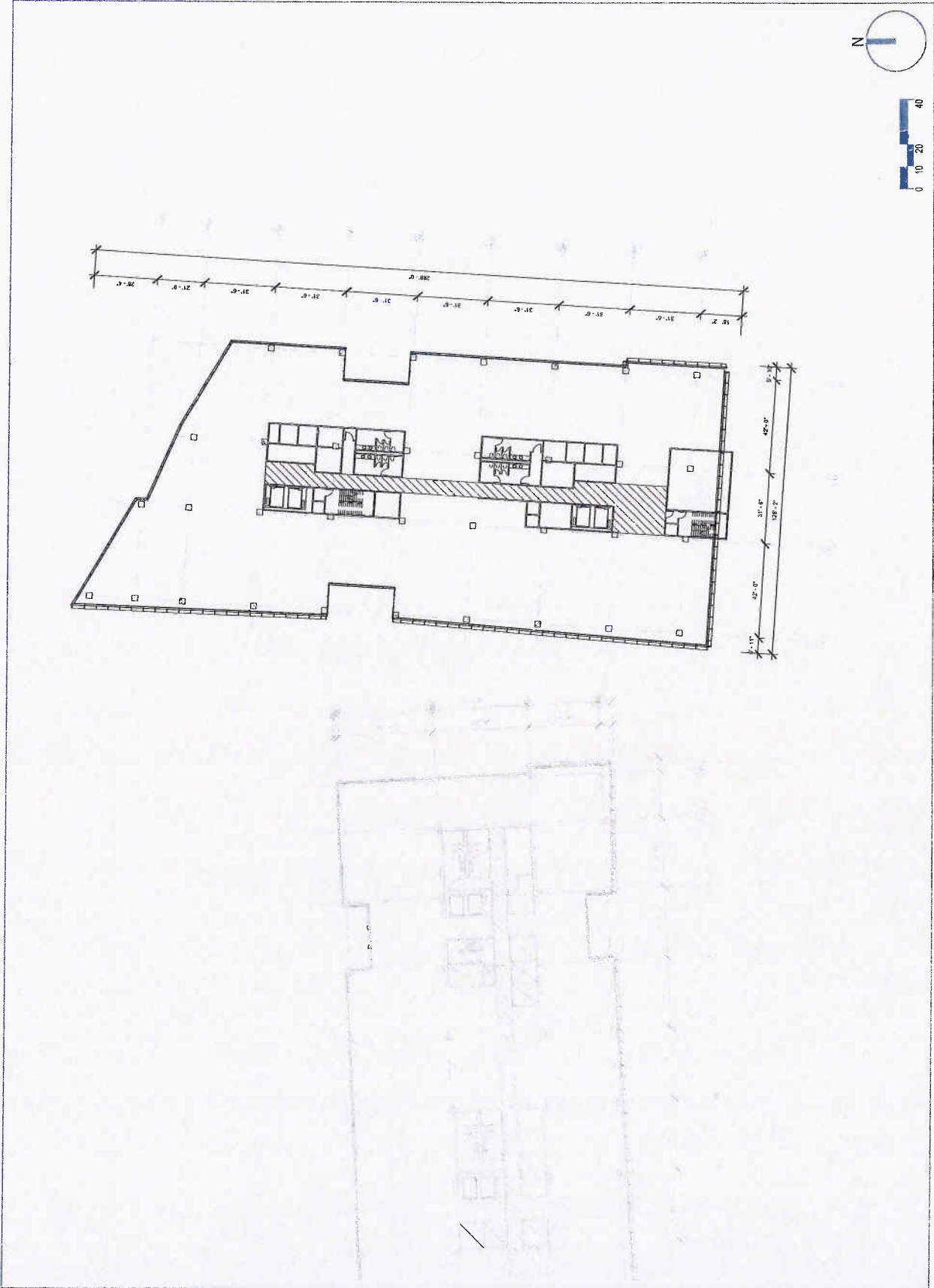




# Building 1A Typical Floor Plan

OYSTER POINT, South San Francisco  
 Phase I Precise Plan

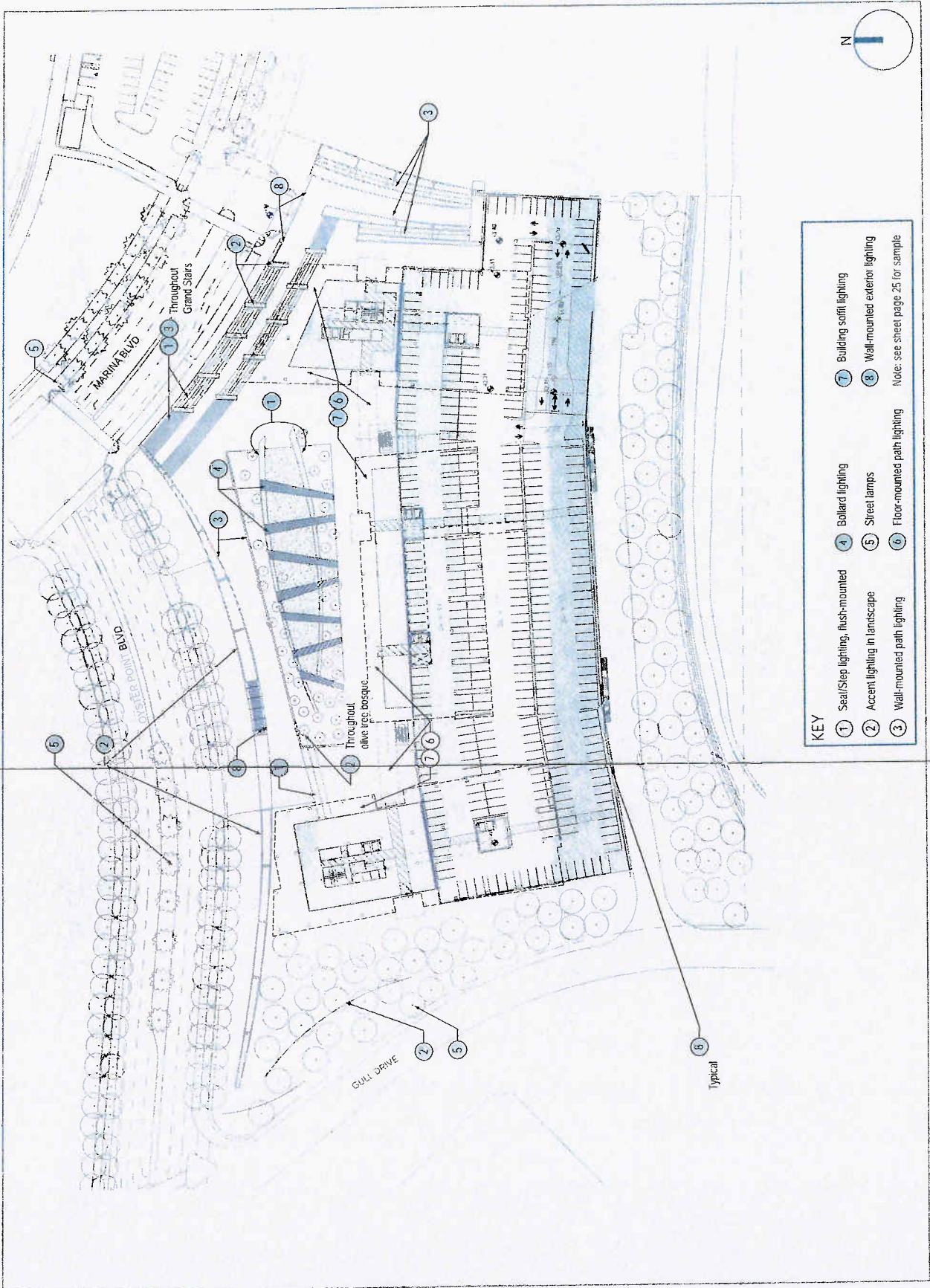
Perkins+Will  
 Mayer+Seltzerberg  
 Wilsey Ham  
 ARUP  
 HDR Engineering  
 I/PD  
 Treadwell & Rollo







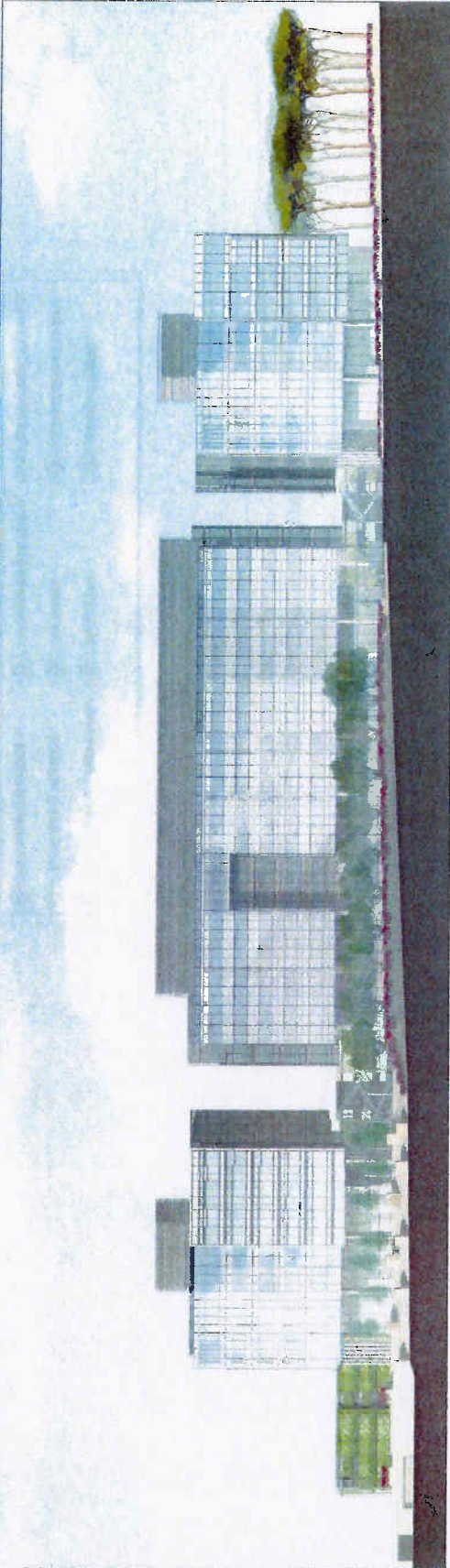




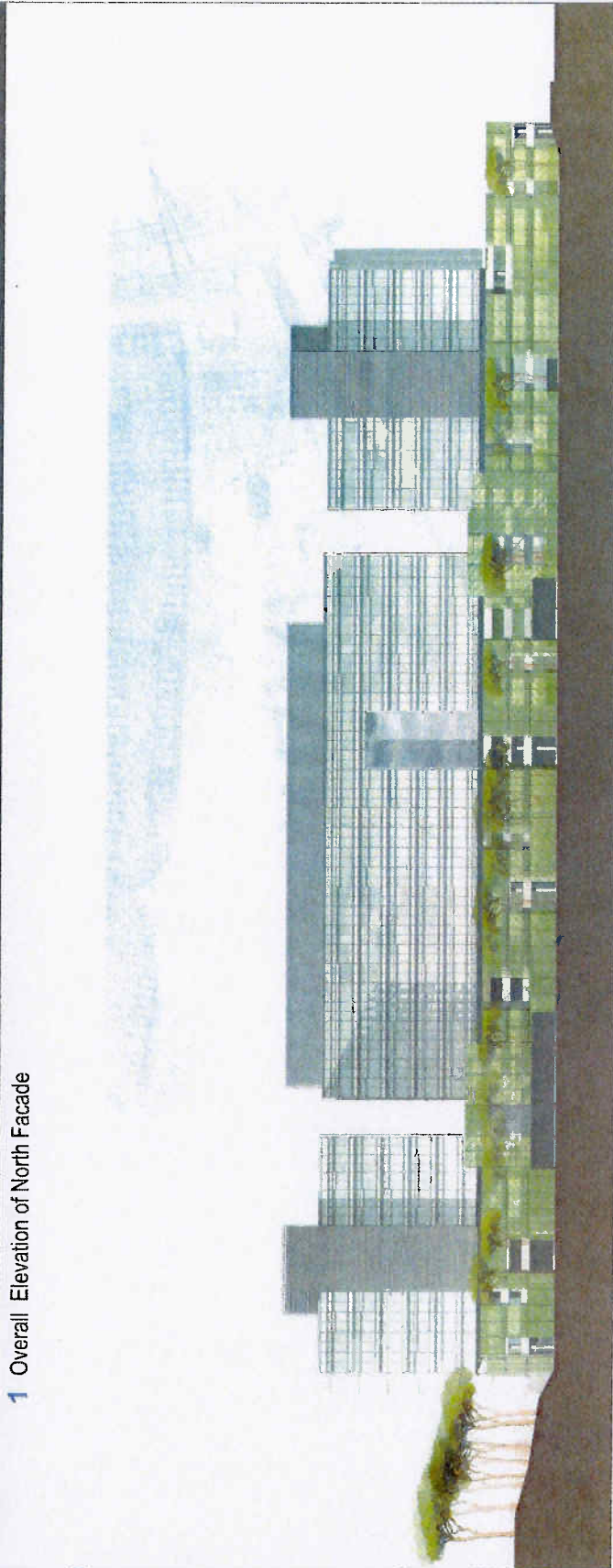
**KEY**

① Seal/Step lighting, flush-mounted	④ Bollard lighting	⑦ Building soffit lighting
② Accent lighting in landscape	⑤ Street lamps	⑧ Wall-mounted exterior lighting
③ Wall-mounted path lighting	⑥ Floor-mounted path lighting	

Note: see sheet page 25 for sample



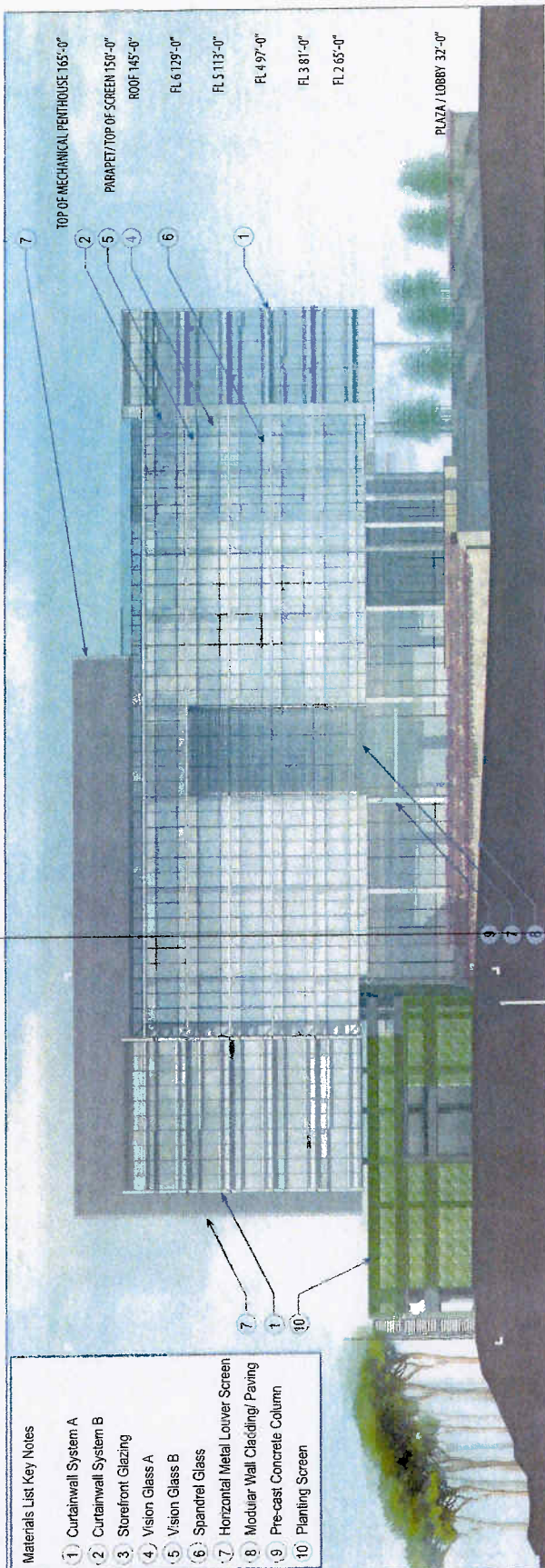
1 Overall Elevation of North Facade



2 Overall Elevation of South Facade

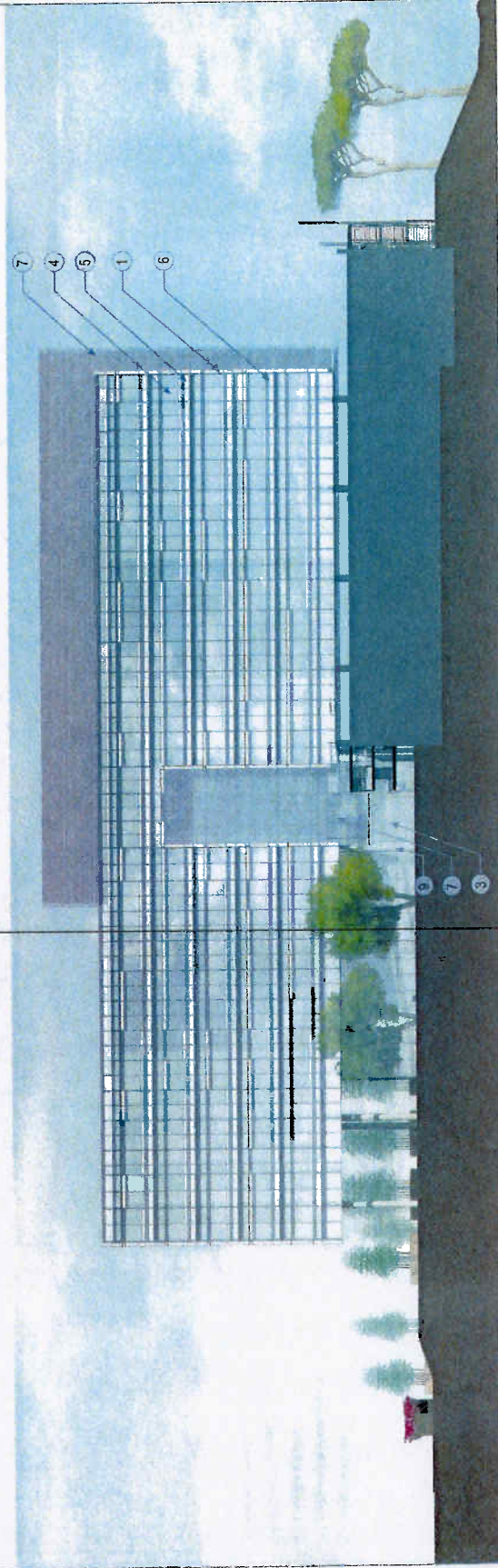
Materials List Key Notes

- 1. Curtainwall System A
- 2. Curtainwall System B
- 3. Storefront Glazing
- 4. Vision Glass A
- 5. Vision Glass B
- 6. Spandrel Glass
- 7. Horizontal Metal Louver Screen
- 8. Modular Wall Cladding/ Paving
- 9. Pre-cast Concrete Column
- 10. Planting Screen



1 East Elevation of Building 1A

Architectural Materials  
Sheet 43



2 West Elevation of Building 1A

Rendered Building 1A Elevations

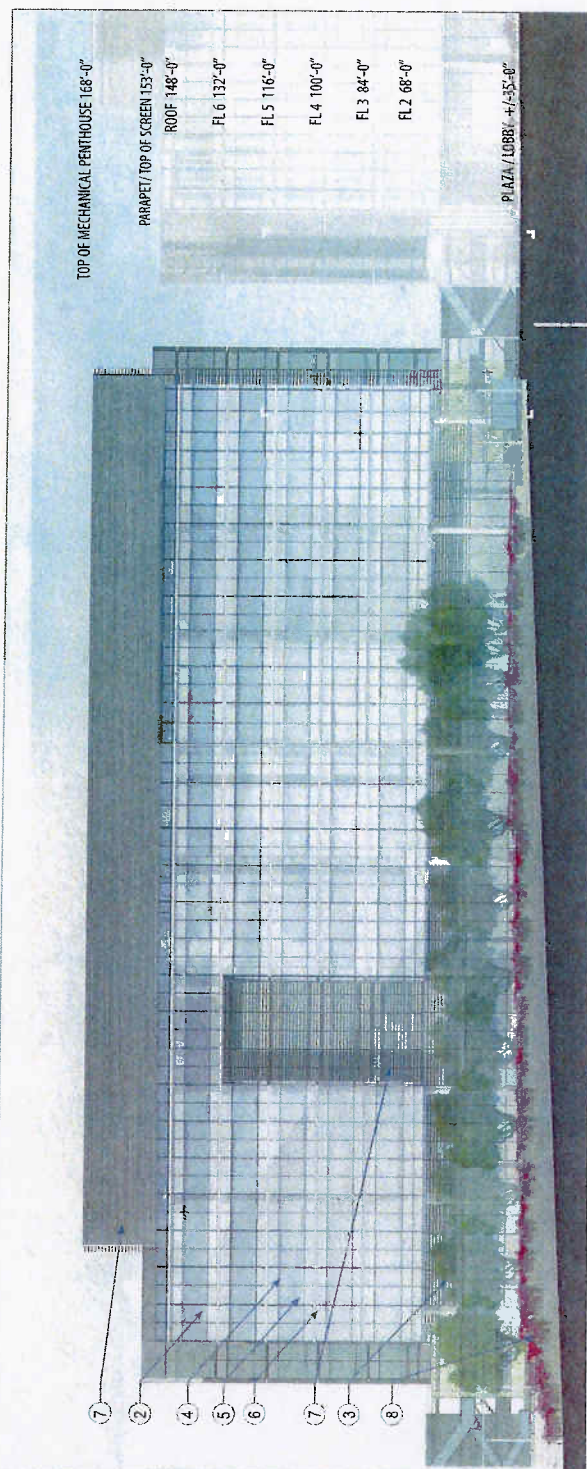
OYSTER POINT, South San Francisco  
Phase I Precise Plan

Plattner+Kovill  
Meyer+Silberberg  
Wilsey Flann  
ARUP  
HDR Engineering  
IPD  
Treadwell & Røilo

34

Materials List Key Notes

- ① Curtainwall System A
- ② Curtainwall System B
- ③ Storefront Glazing
- ④ Vision Glass A
- ⑤ Vision Glass B
- ⑥ Spandrel Glass
- ⑦ Horizontal Metal Louver Screen
- ⑧ Modular Wall Cladding/Paving
- ⑨ Pre-cast Concrete Column
- ⑩ Planting Screen

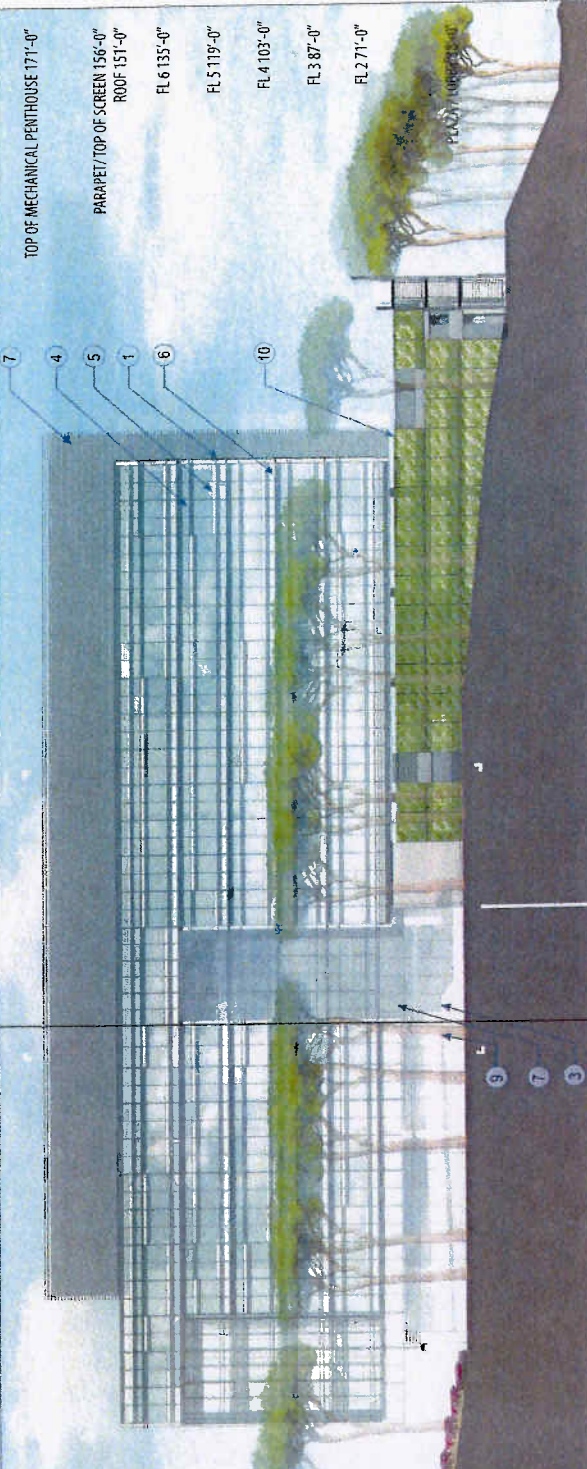


1 North Elevation of Building 1B



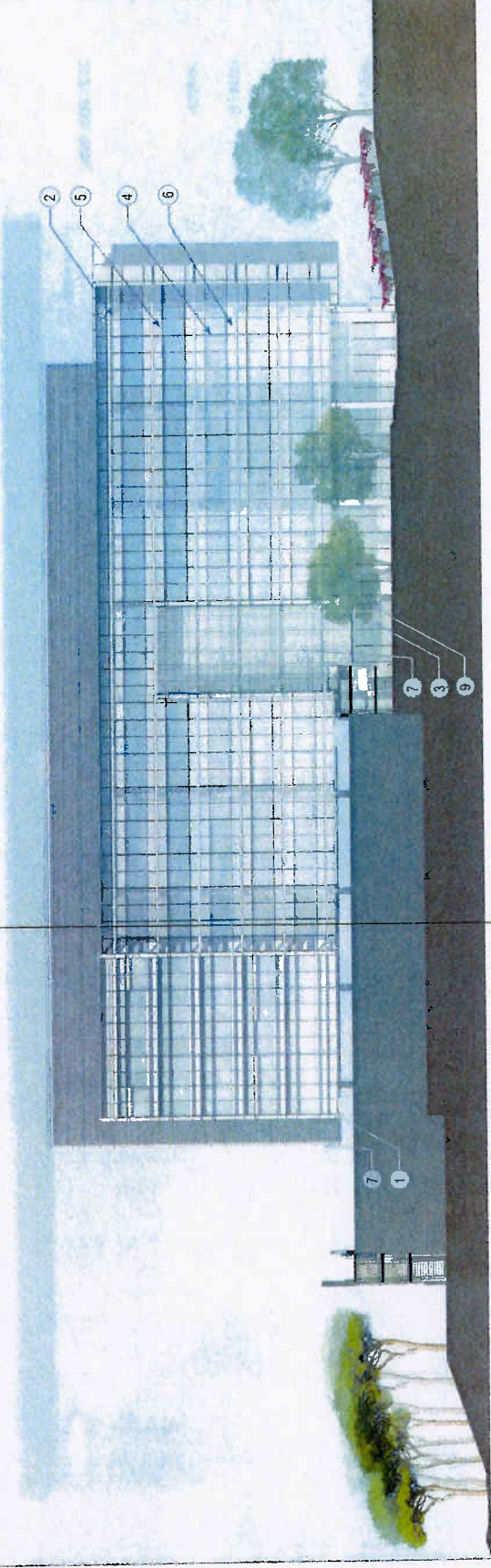
2 South Elevation of Building 1B

- Materials List Key Notes
- 1) Curtainwall System A
  - 2) Curtainwall System B
  - 3) Storefront Glazing
  - 4) Vision Glass A
  - 5) Vision Glass B
  - 6) Spandrel Glass
  - 7) Horizontal Metal Louver Screen
  - 8) Modular Wall Cladding/ Paving
  - 9) Pre-cast Concrete Column
  - 10) Planting Screen



1 West Elevation of Building 1C

Architectural Materials  
Sheet 41



2 East Elevation of Building 1C

# Rendered Building 1C Elevations

DRAFT February 23, 2011



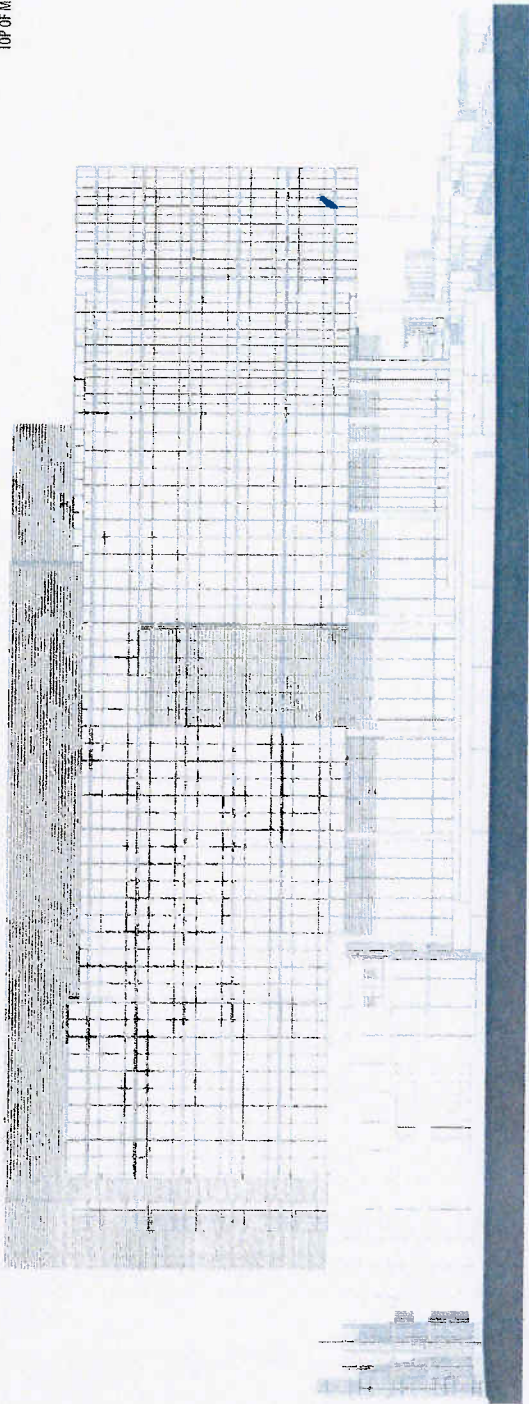
OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Meyer+Siberberg  
Wilsey Horn  
ARUP  
HDR Engineering  
IPD  
Treadwell & Rallo

TOP OF MECHANICAL PENTHOUSE 165'-0"

- ROOF 145'-0"
- FL 6 129'-0"
- FL 5 113'-0"
- FL 4 97'-0"
- FL 3 81'-0"
- FL 2 65'-0"

PLAZA / LOBBY 32'-0"

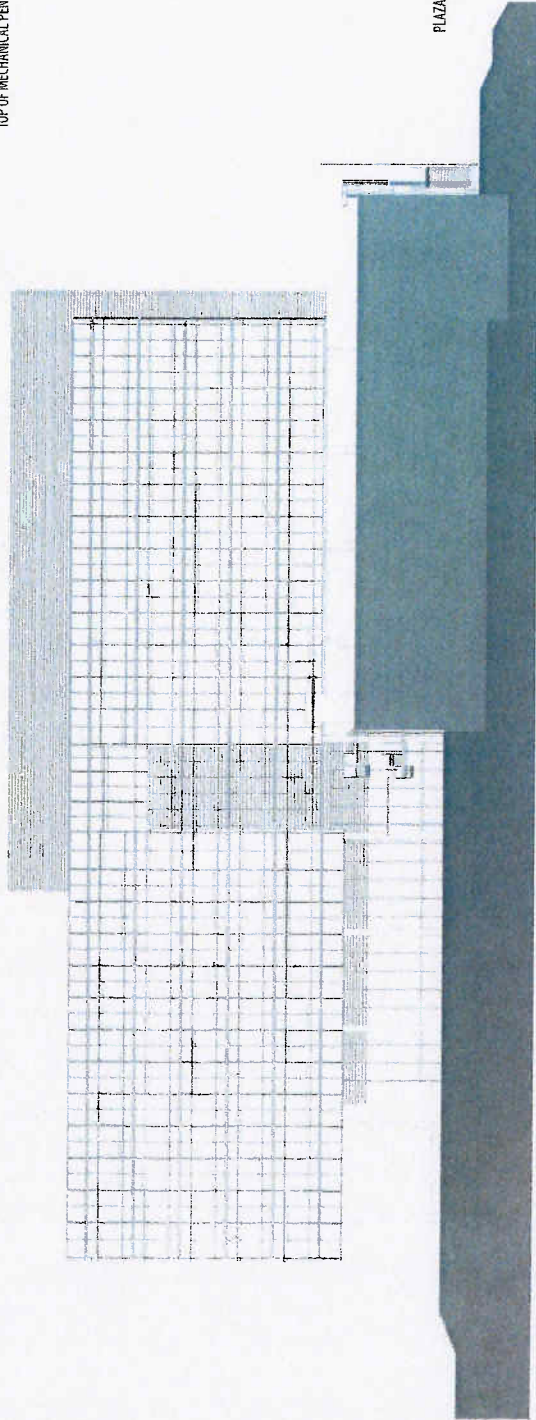


1 East Elevation of Building 1A

TOP OF MECHANICAL PENTHOUSE 165'-0"

- ROOF 145'-0"
- FL 6 129'-0"
- FL 5 113'-0"
- FL 4 97'-0"
- FL 3 81'-0"
- FL 2 65'-0"

PLAZA / LOBBY 32'-0"



2 West Elevation of Building 1A





SKS

Investments

DRAFT February 23, 2011

# Building 1B Elevations

OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Meyer-Silberberg  
Wiseley Ham  
ARUP  
HDR Engineering  
IPD  
Treadwell & Rollo

38

TOP OF MECHANICAL PENTHOUSE 165'-0"

ROOF 145'-0"

FL 6 129'-0"

FL 5 113'-0"

FL 4 97'-0"

FL 3 81'-0"

FL 2 65'-0"

PLAZA / LOBBY 35'-0"

1 North Elevation of Building 1B

TOP OF MECHANICAL PENTHOUSE 165'-0"

ROOF 145'-0"

FL 6 129'-0"

FL 5 113'-0"

FL 4 97'-0"

FL 3 81'-0"

FL 2 65'-0"

PLAZA / LOBBY 35'-0"

SERVICE LEVEL 21'-0"

2 South Elevation of Building 1B

TOP OF MECHANICAL PENTHOUSE 171'-0"

- ROOF 151'-0"
- FL 6 135'-0"
- FL 5 119'-0"
- FL 4 103'-0"
- FL 3 87'-0"
- FL 2 71'-0"

PLAZA / LOBBY 38'-0"

1 West Elevation of Building 1C

TOP OF MECHANICAL PENTHOUSE 171'-0"

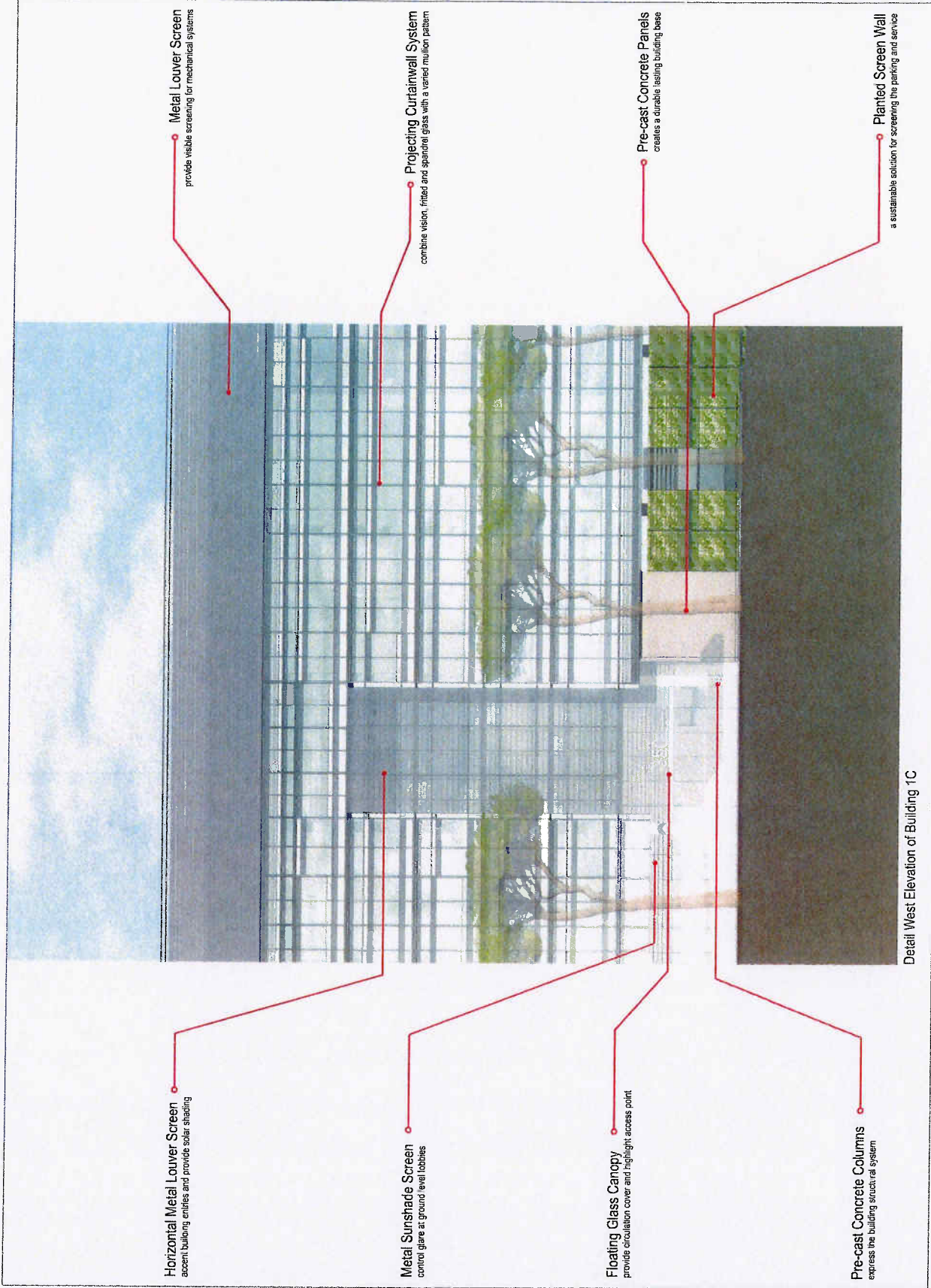
- ROOF 151'-0"
- FL 6 135'-0"
- FL 5 119'-0"
- FL 4 103'-0"
- FL 3 87'-0"
- FL 2 71'-0"

PLAZA / LOBBY 38'-0"

2 East Elevation of Building 1C



**1** Site Section Through Building 1B



**Horizontal Metal Louver Screen**  
accent building entries and provide solar shading

**Metal Louver Screen**  
provide visible screening for mechanical systems

**Metal Sunshade Screen**  
control glare at ground level lobbies

**Projecting Curtainwall System**  
combine vision, fritted and spandrel glass with a varied mullion pattern

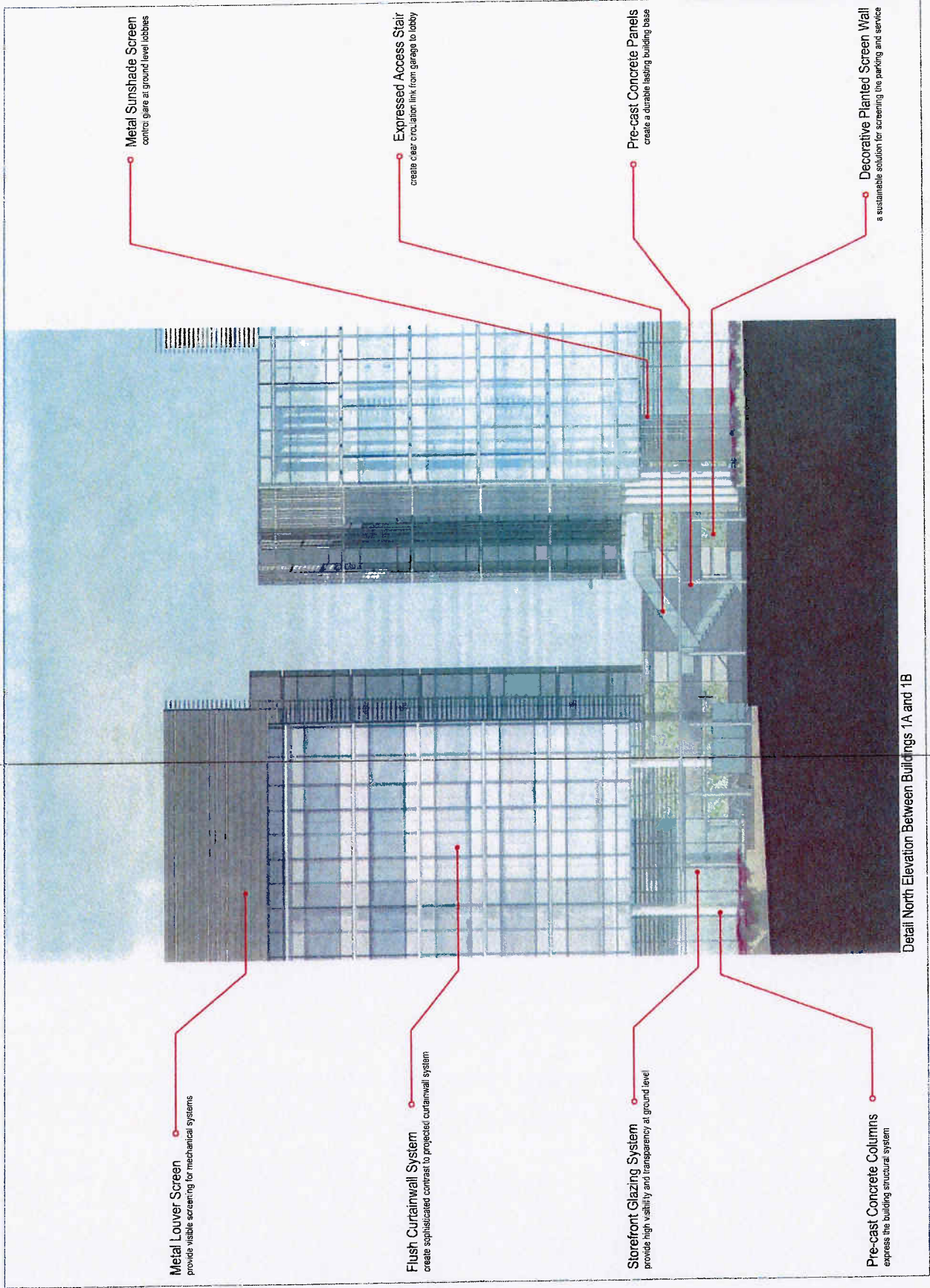
**Floating Glass Canopy**  
provide circulation cover and highlight access point

**Pre-cast Concrete Panels**  
creates a durable lasting building base

**Pre-cast Concrete Columns**  
express the building structural system

**Planted Screen Wall**  
a sustainable solution for screening the parking and service

Detail West Elevation of Building 1C



Detail North Elevation Between Buildings 1A and 1B

**Metal Louver Screen**  
provide visible screening for mechanical systems

**Flush Curtainwall System**  
create sophisticated contrast to project's curtainwall system

**Storefront Glazing System**  
provide high visibility and transparency at ground level

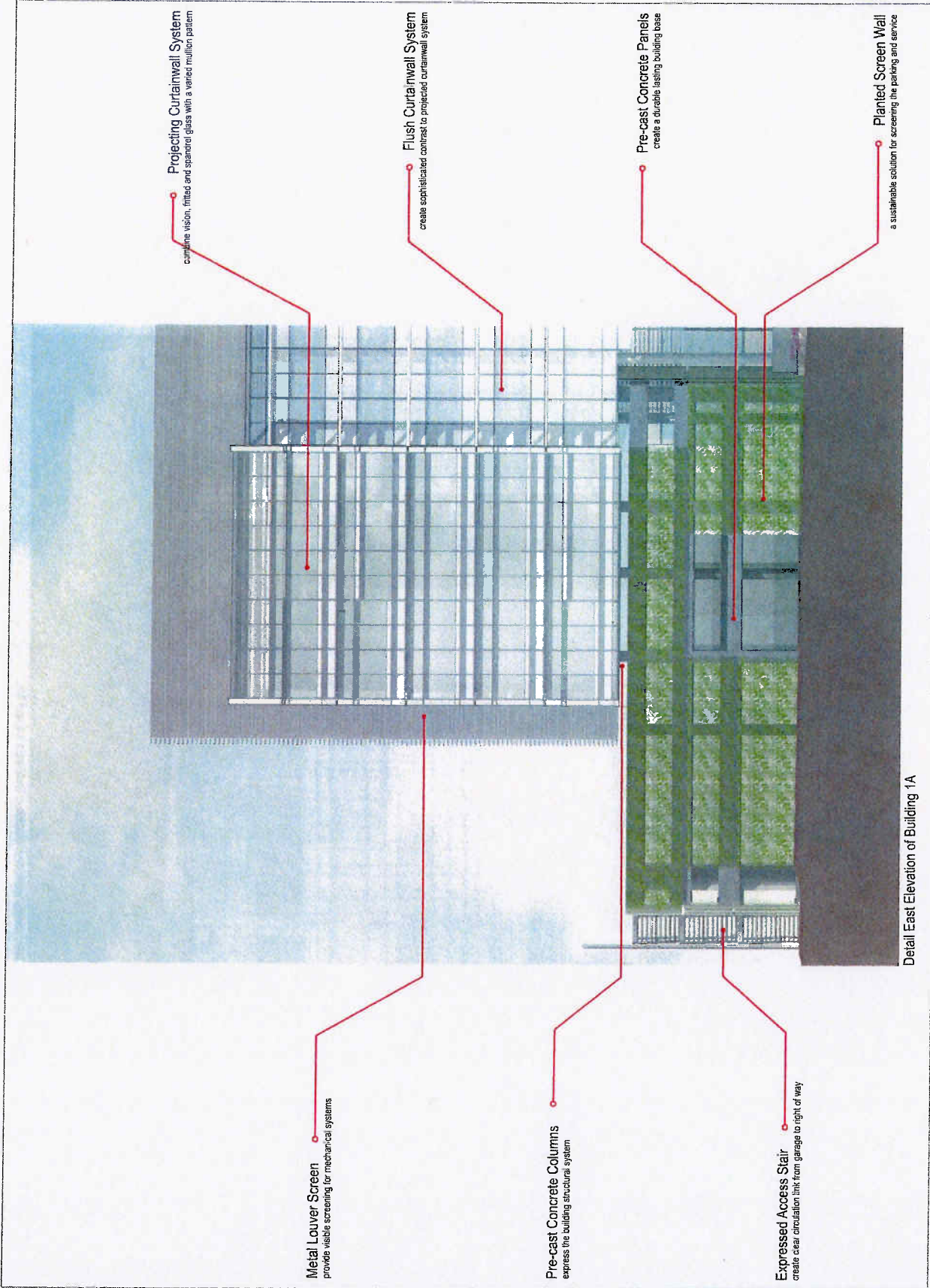
**Pre-cast Concrete Columns**  
express the building structural system

**Metal Sunshade Screen**  
control glare at ground level lobbies

**Expressed Access Stair**  
create clear circulation link from garage to lobby

**Pre-cast Concrete Panels**  
create a durable lasting building base

**Decorative Planted Screen Wall**  
a sustainable solution for screening the parking and service



**Projecting Curtainwall System**  
combine vision, fitted and spanned glass with a varied mullion pattern

**Flush Curtainwall System**  
create sophisticated contrast to projecting curtainwall system

**Pre-cast Concrete Panels**  
create a durable lasting building base

**Planted Screen Wall**  
a sustainable solution for screening the parking and service

**Metal Louver Screen**  
provide visible screening for mechanical systems

**Pre-cast Concrete Columns**  
express the building structural system

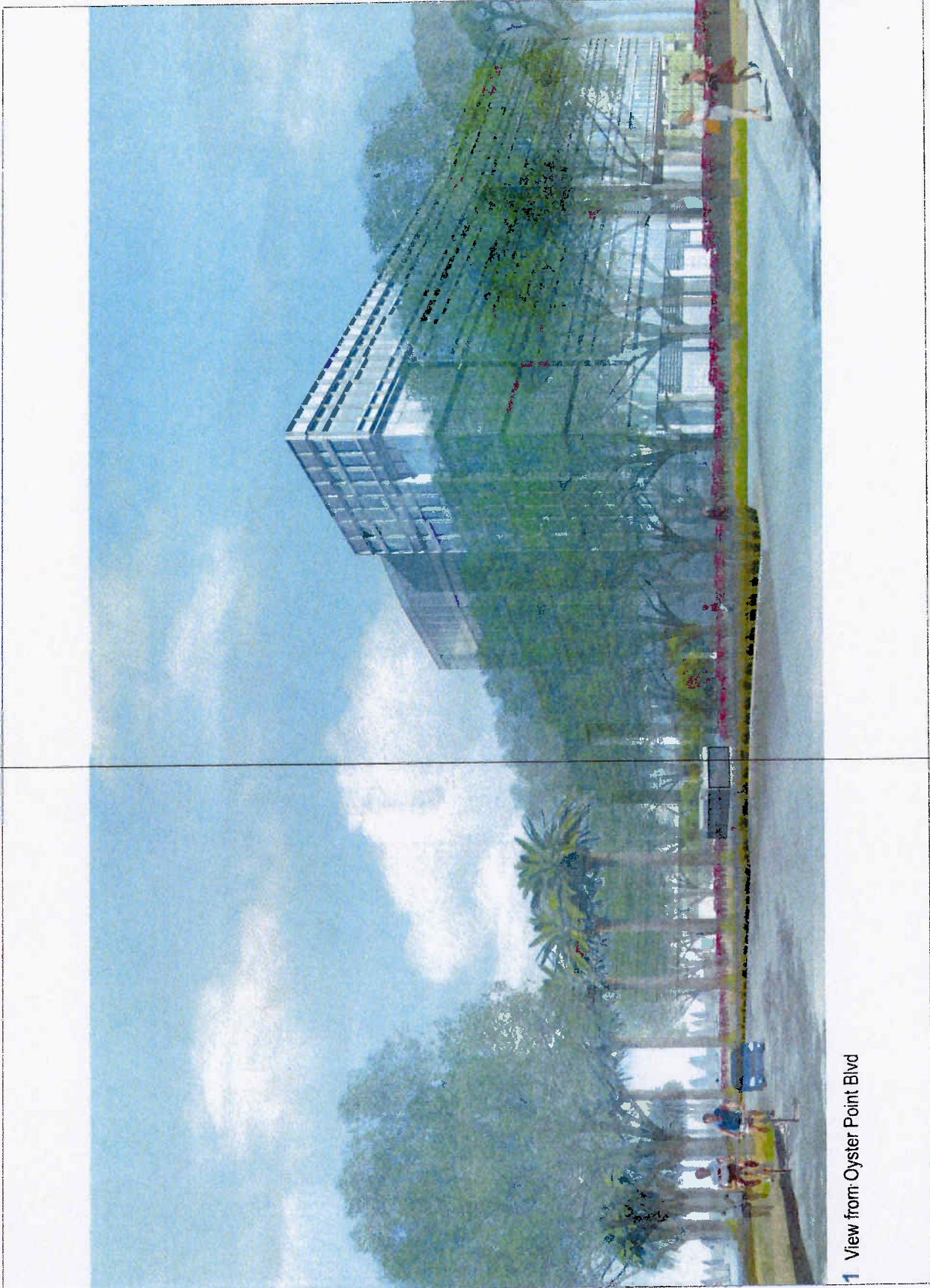
**Expressed Access Stair**  
create clear circulation link from garage to right of way

Detail East Elevation of Building 1A

# Perspective from Oyster Point Blvd

OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Meyer-Silberberg  
Wisley Herr  
ARUP  
HDR Engineering  
IPD  
Treatwell & Rollo



1 View from Oyster Point Blvd



1 View from Marina Blvd

# Perspective from Marina Blvd

OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Meyer+Silberberg  
Wilsey Han  
ARUP  
HDR Engineering  
IPD  
Treadwell & Rollo



# Perspective from Plaza

OYSTER POINT, South San Francisco  
Phase I Precise Plan

Perkins+Will  
Meyer+Stierberg  
Wilsey/Ham  
ARUP  
HDR Engineering  
JPD  
Treadwell & Rollo



1 View from Plaza



**Exhibit E-1**  
**Applicable Law**

## DEVELOPMENT AGREEMENT – EXHIBIT E-1

### **1. RULES, REGULATIONS, OFFICIAL POLICIES, STANDARDS AND SPECIFICATIONS**

Pursuant to the Development Agreement between the City and Oyster Point Ventures, LLC (“Developer”), the rules, regulations, official policies, standards and specifications applicable to the Project (the “Applicable Law”) shall be those set forth in the Project Approvals and the Subsequent Approvals, and only (1) those additional rules, regulations, official policies, standards and specifications governing permitted uses, building locations, timing of construction, densities, design, and heights, and the fees, assessments, exactions, and taxes in force and effect on the Effective Date of this Agreement (“Effective Date”), including, without limitation, those rules, regulations, official policies, standards and specifications set forth below, and (2) those certain additional fees, assessments, exactions, and taxes set forth herein in Exhibit E-1, and none other.

1.1 South San Francisco General Plan (Adopted October 13, 1999 and as amended through Effective Date);

1.2 South San Francisco Municipal Code (“SSFMC”) (as amended through Effective Date), including:

1.2.1 South San Francisco Zoning Ordinance, Title 20 of SSFMC and Zoning District Map (Adopted July 28, 2010 and as amended through Effective Date);

1.2.2 South San Francisco Subdivision Ordinance, Title 19 of SSFMC (Adopted May 21, 1981 and as amended through Effective Date);

1.3 East of 101 Area Plan (Adopted July 1994 and as amended through Effective Date);

1.4 Oyster Point Specific Plan (Adopted March 23, 2011);

1.5 Redevelopment Plan for Downtown/Central Project Area (Adopted July 12, 1989 and as amended through Effective Date);

1.6 Redevelopment Plan Amendment for the Downtown/Central Project Area (to be adopted);

1.7 Joint Powers Agreement between City and San Mateo County Harbor District (Entered October 21, 1977 and as amended through Effective Date);

1.8 Design Review Guidelines [for Commercial/Industrial Projects] (in effect as of Effective Date);

For illustrative purposes only, Exhibit E-2 provides calculations of the fees based on rates in effect on Effective Date of the Agreement and those fees proposed to be adopted in the future, and assuming 2,250,000 square feet of net new development; except as specified in this Exhibit E-1 or the resolution(s) and ordinance(s) adopting and implementing the fees, actual fees assessed will be calculated at the rates in effect at the time payment is due, and based on actual square footage.

## **2. FEES, TAXES, EXACTIONS, DEDICATION OBLIGATIONS, AND ASSESSMENTS**

Developer agrees that Developer shall be responsible for the payment of the following existing and, if adopted, potential future fees, exactions, taxes, and assessments (collectively, “**Assessments**”). From time to time, the City may update, revise, or change its Assessments. The Parties agree that such updates, revisions, and changes shall not prevent the City from assessing the updated, revised, or changed Assessment against the Marina Property or Business Park. Further, nothing herein shall be construed to relieve the Property from common benefit assessments levied against it and similarly situated properties by the City pursuant to and in accordance with any statutory procedure for the assessment of property to pay for infrastructure and/or services that benefit the Property. Except as indicated below, the amount paid for a particular Assessment, shall be the amount owed, based on the calculation or formula in place at the time payment is due as specified below.

**2.1 Impact Fees (Existing Fees).** Except as modified below, existing fees shall be paid at the rates and at the times prescribed in the resolution(s) or ordinance(s) adopting and implementing the fees.

### **2.1.1 Childcare Impact Fee** (SSFMC, ch. 20.310; Ordinance 1301-2001).

(a) Developer shall construct and have ready for occupancy, a childcare facility or facilities that is the lesser of (i) 22,000 square feet plus sufficient additional open space to meet State licensing requirements, or (ii) sufficient gross square feet to accommodate a minimum of 275 children, within the Project, no later than the earlier of: occupancy of the final building to be constructed in third phase of the Project to be constructed; or one year prior to the expiration of this Agreement.

Accordingly, Developer shall submit design plans for the shell of the childcare facility no later than the issuance of a building permit for the final building in third phase to be constructed, and shall obtain all required permits, including building permits and commence construction of the tenant improvements for such facility no later than six (6) months after issuance of a certificate of occupancy for the final building in third phase to be constructed. If the childcare facility is open to the public, City and Developer may mutually agree to allow the City to operate the facility.

(b) Notwithstanding the foregoing, at any time including after commencement or completion of construction of the shell or tenant improvements for the childcare facility described in paragraph 2.1.1(a), Developer may alternatively meet the requirements of this Section 2.1.1 by providing a one dollar (\$1) per gross square foot in-lieu fee for the net new construction of building area that has been completed prior to the time of such payment, excluding parking structures. Each year after 2010, the per square foot fee shall automatically be increased at a rate equal to the Change from Prior Year for the Consumer Price Index—All Urban Consumers, for the San Francisco-Oakland-San Jose Area. If Developer elects to satisfy this childcare requirement through payment of this in-lieu fee, the in-lieu fee shall be paid no later than issuance of a building permit for the final building in third phase to be constructed or one year prior to expiration of this Agreement, whichever occurs earlier. In no case shall the City issue a final certificate of occupancy

for the final building in the third phase to be constructed, unless Developer has either (i) constructed the shell for the childcare facility described in paragraph 2.1.1(a), or paid the fee described in this paragraph 2.1.1(b). After initial payment of the fee, Developer shall continue to pay the fee at the rate described in this paragraph 2.1.1(b), for all subsequently completed net new construction, payable prior to issuance of each subsequent building permit.

(c) If Developer fails to either construct a new facility by the deadline described in paragraph (a), or pay the in-lieu fee by the deadline described in paragraph (b), Developer shall instead pay a fee equal to the City's estimated reasonable costs, including all costs associated with site acquisition (including, if necessary, eminent domain), environmental review, permitting, and all other expenses and fees, including attorney's fees, required to construct a childcare facility of equivalent size and quality as that described in paragraph 2.1.1(a). Developer shall pay this fee to the City no later than six (6) months after issuance of a certificate of occupancy for the final building in the third phase to be constructed or one year prior to expiration of this Agreement whichever occurs earlier.

2.1.2 **East of 101 Traffic Impact Fee** (Resolution 84-2007). East of 101 Traffic Impact fees shall be paid for each Phase of the Project, and shall be determined based on the application of the formula in effect at the time the City issues each building permit, and shall be payable prior to the issuance of such building permit.

2.1.3 **Oyster Point Grade Separation Fee** (Resolution 102-96). Oyster Point fees shall be paid for each Phase of the Project, and shall be determined based on the application of the formula in effect at the time the City issues each building permit, and shall be payable prior the issuance of such building permit.

2.1.4 **East of 101 Sewer Impact Fee** (Resolution 97-2002). Sewer Impact fees shall be paid for each Phase of the Project, and shall be determined based on the application of the formula in effect at the time the City issues each building permit, and shall be payable prior to the issuance of such building permit.

2.1.5 **Sewer Capacity Charge** (Resolution 39-2010).

2.1.6 **General Plan Maintenance Fee** (Resolution 74-2007).

2.1.7 **Permit Processing Fees**. As adopted pursuant to City's Master Fee Schedule for processing of land use entitlements, including with out limitation, General Plan amendments, zoning changes, precise plans, development agreements, conditional use permits, variances, transportation demand management plans, tentative subdivision maps, parcel maps, lot line adjustments, and building permits.

## 2.2 **Impact Fees (Potential Future Fees).**

2.2.1 **Parks and Recreation Fee**. As of the Effective Date, the City is evaluating a "Park Facilities Fee" to support the provision, operation, and maintenance of park facilities and additional public open space in lieu of requiring that applicants dedicate one-half an acre per 1,000 new employees, to the public in the East of 101 area. If implemented by December 31, 2012, Developer shall be responsible for such Park Facilities Fee, with a maximum cap of \$4.78 per gross

square foot of building area, excluding parking structures. The actual fee, if implemented, may be lower, in which case Developer would be responsible for the actual fee in effect at the time the City issues each building permit for development subject to the fee. Developer shall receive a credit to offset the Park Facilities Fee for development of public open space created and/or improved on the Business Park equal to 100% of the public open space created and/or improved on the Business Park. Developer shall also receive a credit to offset a portion of the Park Facilities Fee for development of private open space created within the Project Site. Developer's credit for private open space shall be identical to the credit, if any, allowed under the Park Facilities Fee program, if implemented, except that (i) in no case, shall Developer receive a credit offsetting less than 25% of Developer's required fee, or more than 50% of Developer's required fee; and (ii) in no case shall zoning or building code required open areas, including but not limited to the fifteen-percent landscaping requirement (SSFMC, § 20.110.003) and setbacks, be counted towards any offsetting credit.

**2.2.2 Stormwater Permit Compliance Fee.** As of the Effective Date of the Agreement, the City is considering a citywide fee applicable to all private property that would be adopted to fund or reimburse the City for the City's expenses associated with its compliance with Regional Stormwater Permit ("Stormwater Fee"), including maintenance and inspection. Developer shall be responsible for such Stormwater Fee, with a maximum annual cap of \$725.00 per acre adjusted annually on January 1, commencing January 1, 2013, by the proportionate increase in the Producer Price Index—All Commodities as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The Stormwater Fee shall be payable for each Subsequent Approval, provided that (i) the Subsequent Approval is for an entitlement covered by the Stormwater Fee, and (ii) a complete application for the Subsequent Approval is received after the effective date of the Stormwater Fee. Unless the Stormwater Fee provides otherwise, the Stormwater Fee shall be paid prior to issuance of any building permit for the Subsequent Approval to which the Stormwater Fee applies. The amount of the Stormwater Fee to be paid shall be in accordance with the calculation in effect at the time of payment.

**2.2.3 Fire Department Hazardous Materials Response Facilities, Vehicles and Equipment Fee.** As of the Effective Date, the City is evaluating a Fire Department fee to fund "Hazardous Materials Response Facilities, Vehicles and Equipment" to assist the City's Fire Department with responding to incidents involving hazardous materials in the East of 101 area. If implemented by December 31, 2012, Developer shall be responsible for such Fee, with a maximum cap of \$0.28 per square foot of building area. The actual fee, if implemented, may be lower, in which case Developer would be responsible for the actual fee in effect at the time the City issues each building permit for development subject to the fee. Developer shall receive a credit to offset a portion of this Fee, in the event Developer directly provides or funds any of the facilities, vehicles, and/or equipment funded by the Fee. Developer's credit shall be identical to the amount Developer spends on development and/or funding of any of these facilities, vehicles, and/or equipment.

## **2.3 User Fees.**

**2.3.1 Sewer Service Charges** (assessed as part of property tax bill)

**2.3.2 Stormwater Charges** (assessed as part of property tax bill)

## **2.4 Other Exactions.**

**2.4.1 Mass Decontamination Facility Contribution.** As Developer's fair share contribution to the City's emergency preparedness, Developer shall pay an in-lieu fee to be used to fund a portion of the costs of purchasing a mobile, prefabricated mass decontamination system, capable of serving ambulatory and non-ambulatory, chemically contaminated persons at a rate of not less than two hundred fifty (250) persons per hour. The in-lieu fee shall be in the amount of \$0.10 per gross square foot of building area, excluding parking structures, and shall be payable prior to the issuance of a Certificate of Occupancy for the shell of each building to be constructed as part of the Project. The in-lieu fee shall be payable by Developer until the system is fully funded and shall be deposited and held in a separate account by the City.

**2.4.2 Public Art / Transit Enhancement Fee.** Developer shall pay an in-lieu fee to be used for enhancing, enlarging, repairing, restoring, renovating, remodeling, redecorating, and/or refurbishing the Caltrain Station located at 590 Dubuque Avenue, the Oyster Point Ferry terminal and/or their associated facilities. The in-lieu fee shall be in the amount of one dollar (\$1.00) per gross square foot of building area, excluding parking structures, in the development and shall be payable in two (2) equal installments per building. One-half (1/2) of the in-lieu fee shall be payable prior to the issuance of a building permit for the shell of each building, and one-half (1/2) of the in-lieu fee shall be payable prior to the issuance of a Certificate of Occupancy for the shell of each building.

**2.4.3 Green Building Requirements.**

(a) **LEED.** Prior to issuance of any building permit for any tenanted building, Developer shall provide evidence demonstrating that if constructed in accordance with the approved design and construction plans, the building will meet minimum standards required to achieve at least a Leadership in Energy and Environmental Design version 3 (LEED v3) Silver certification under the Core and Shell Development rating system. Within one year of the issuance of a certificate of occupancy for any tenanted building, Developer shall provide evidence demonstrating that the building has been certified as at least LEED v3 Silver under the Core and Shell Development Rating System.

(b) **On-Site Energy Generation.** The Project, including all of its phases shall implement utilization of technologies that will result in generation of electric power on-site, and will reduce the loading on the electrical grid. Upon completion of the last phase of the Project, at least one percent (1.0%) of all electrical power shall be generated on-site, with an aspiration of generating at least five percent (5.0%) of all electrical power on-site. The Project shall incorporate a combination of green and renewable (e.g., solar power) and other alternate sources of electrical power generation on-site. After completion of the last phase of the Project, one (1) time per year, Developer shall submit a report demonstrating ratios of power purchased to power produced for a period of five years.

**2.4.4 Payment.** Prior to commencement of construction of the first building in the first phase of development, Developer shall make a cash payment to the City in the amount of one million one hundred thousand dollars (\$1,100,000).



**Exhibit E-2**

**Illustrative Fee Table**

Oyster Point  
Calculations of existing and proposed fees

Fee Category	Existing and Proposed Fees		Currently Approved Fees	
	Rate	Phase I Fee	Rate	Phase I Fee
East of 101 Traffic Impact Fee	\$ 4.90 per NN GSF	\$ 2,163,066	\$ 4.90 per NN GSF	\$ 2,163,066
Oyster Point Grade Separation Fee	varies by use	\$ 763,439	varies by use	\$ 763,439
Sewer Impact Fee	\$ 1.60 per NN GSF	\$ 708,404	\$ 1.60 per NN GSF	\$ 708,404
Sewer Capacity Fee	Varies by use	\$ 1,899,190	Varies by use	\$ 1,899,190
General Plan Maintenance Fee	0.15% of construction value Assume value is: \$ 300 /GSF (assumed)	\$ 228,600	0.15% of assess value	\$ 228,600
Child Care	\$ 1.00 per GSF or construction of new child care facility	\$ 508,000	\$ 0.58 per GSF	\$ 294,640
Public Art/Transit Facility (Cap)	\$ 1.00 per GSF	\$ 508,000	\$ - N/A	\$ -
Mass Decontamination Facility (Cap)	\$ 0.10 per GSF	\$ 50,800	\$ - N/A	\$ -
Fire Dept HazMat Response Facilities Vehicles and Equipment Fee (Cap)	\$ 0.28 per GSF	\$ 142,240	\$ - N/A	\$ -
Parks and Recreation Fee	\$ 4.78 per NN GSF or provide 0.5 acres of open space per 1,000 employees:	\$ - 3.15 acres to be dedicated 0.71 acres to be dedicated	\$ - N/A	\$ -
<b>Total of Fees Fees per GSF</b>		<b>\$ 28,404,163 \$ 6,971,739 12.62 \$ 13.72</b>		<b>\$ 24,499,163 \$ 6,057,339 10.89 \$ 11.92</b>

**Exhibit F**

**Assignment and Assumption of Rights and Obligations Form**

EXHIBIT \_\_

FORM ASSIGNMENT AND ASSUMPTION AGREEMENT

RECORDING REQUESTED BY )
AND WHEN RECORDED MAIL TO: )
City of South San Francisco )
400 Grand Avenue )
South San Francisco, CA 94080 )
Attn: \_\_\_\_\_ )

(Space Above This Line for Recorder's Use Only)
Exempt from Recording Fee per Government Code
§ 27383

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_, by and among Oyster Point Ventures, LLC a \_\_\_\_\_ ("Assignor"), \_\_\_\_\_, a \_\_\_\_\_ ("Assignee"), and the City of South San Francisco, a municipal corporation ("City").

RECITALS

A. Assignor has entered into a Development Agreement with City effective \_\_\_\_\_ (Recorder's Document No. \_\_\_\_\_) ("Development Agreement"), to facilitate the redevelopment of that certain real property owned and to be acquired by Developer consisting of approximately \_\_ acres within the City of South San Francisco, County of San Mateo, State of California, which is legally described in Exhibits \_\_ to the Development Agreement and shown on the map attached to the Development Agreement as Exhibit \_\_ ("Site"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement.

B. Assignor is the fee owner of the Site, [a portion of which is] designated as APNs \_\_\_\_\_, more particularly described in Exhibit 1 attached hereto and incorporated herein ("Property").

C. Assignor desires to transfer its interest in the Property to Assignee concurrently with execution of this Agreement and Assignee desires to so acquire such interest in the Property from Assignor.

D. Section 11.02 of the Development Agreement provides that Assignor may assign its rights and obligations under the Development Agreement to another party, provided that the Assignor shall have provided to City at least forty-five (45) business days prior written notice and provided that the Assignor and the Assignee document the assignment in an agreement substantially in the form of this Agreement.

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**FORM ASSIGNMENT AND ASSUMPTION AGREEMENT**

E. Assignor has provided the required written notice to City of its intent to enter into an assignment and assumption agreement as required by Section 11.02 of the Development Agreement.

F. Assignor desires to assign to Assignee and Assignee desires to assume all rights and obligations of Assignor under the Development Agreement with respect to the Property. Upon execution of this Agreement and transfer to Assignee of legal title to the Property, Assignor desires to be released from any and all obligations under the Development Agreement with respect to the Property.

**A G R E E M E N T**

NOW, THEREFORE, Assignor, Assignee and City hereby agree as follows:

1. Incorporation. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Assignment by Assignor. Assignor hereby assigns, transfers and grants to Assignee, and its successors and assigns, all of Assignor's rights, title and interest and obligations, duties, responsibilities, conditions and restrictions under the Development Agreement with respect to the Property (collectively, "Rights and Obligations").

3. Acceptance and Assumption by Assignee. Assignee, for itself and its successors and assigns, hereby accepts such assignment and assumes all such Rights and Obligations, whether accruing before or on or after the Effective Date (defined in Section 16 below). Assignee agrees, expressly for the benefit of City, to comply with, perform and execute all of the Rights and Obligations of Assignor arising from or under the Development Agreement.

4. Release of Assignor. Assignee, City hereby fully releases Assignor from all Rights and Obligations. Both Assignor and Assignee acknowledge that this Agreement is intended to fully assign all of Assignor's Rights and Obligations to Assignee, and it is expressly understood that Assignor shall not retain any Rights and Obligations whatsoever.

5. Substitution of Assignor. Assignee hereafter shall be substituted for and replace Assignor in the Development Agreement. Whenever the term "Oyster Point Ventures, LLC" or "Developer" appears in the Development Agreement with respect to the Property, it shall hereafter mean Assignee.

6. Assignor and Assignee Agreements, Indemnifications and Waivers.

a. Assignee represents and warrants to City as follows:

(i) Assignee is a \_\_\_\_\_ duly formed within and in good standing under the laws of the State of \_\_\_\_\_. The copies of the documents evidencing the formation of Assignee, which have been delivered to City, are true and complete copies of the originals, as amended to the date of this Agreement.

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**FORM ASSIGNMENT AND ASSUMPTION AGREEMENT**

Assignee has full right, power and lawful authority to undertake all obligations as provided herein and the execution, performance and delivery of this Agreement by Assignee has been fully authorized by all requisite actions on the part of Assignee.

(ii) Assignee's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Assignee is a party or by which it is bound.

(iii) Assignee has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Assignee's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Assignee's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Assignee's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(iv) As of the Effective Date of this Agreement, Assignee owns fee simple title to the Property.

b. Assignor and Assignee hereby acknowledge and agree that City has not made, and will not make, any representation or warranty that the assignment and assumption of the Development Agreement provided for hereunder will have any particular tax implications for Assignor or Assignee.

c. Assignor and Assignee each hereby waives and releases and each hereby agrees to indemnify and hold City harmless from any and all damages, liabilities, causes of action, claims or potential claims against City (including attorneys fees and costs) arising out of or resulting from the assignment and assumption of the Rights and Obligations.

d. Assignor acknowledges and agrees that the Rights and Obligations have been fully assigned to Assignee by this Agreement and, accordingly, that Assignee shall have the exclusive right to assert any claims against City with respect to such Rights and Obligations. Accordingly, without limiting any claims of Assignee under the Development Agreement, Assignor hereby waives any claims or potential claims by Assignor against City to the extent arising solely out of the Rights and Obligations.

7. Development Agreement in Full Force and Effect. Except as specifically provided herein with respect to the assignment, all the terms, covenants, conditions and provisions of the Development Agreement are hereby ratified and shall remain in full force and effect.

8. Recording. Assignor shall cause this Agreement to be recorded in the Official Records of San Mateo County, California, and shall promptly provide conformed copies of the recorded Agreement to Assignee and City.

9. Successors and Assigns. Subject to the restrictions on transfer set forth in the Development Agreement, all of the terms, covenants, conditions and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their

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**FORM ASSIGNMENT AND ASSUMPTION AGREEMENT**

respective heirs, successors and assigns, pursuant to Section 14.08 of the Development Agreement.

10. Assignee Address for Notices. The address of Assignee for the purpose of notices, demands and communications under Section 14.09 of the Development Agreement shall be:

Assignee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

11. Applicable Law/Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Agreement shall be brought only in the Superior Court of the County of San Mateo, State of California.

12. Interpretation. All parties have been represented by counsel in the preparation and negotiation of this Agreement, and this Agreement shall be construed according to the fair meaning of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. Unless the context clearly requires otherwise: (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neuter genders shall each be deemed to include the others; (c) "shall," "will," or "agrees" are mandatory, and "may" is permissive; (d) "or" is not exclusive; and (e) "includes" and "including" are not limiting.

13. Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Agreement.

14. Severability. Except as otherwise provided herein, if any provision(s) of this Agreement is (are) held invalid, the remainder of this Agreement shall not be affected, except as necessarily required by the invalid provisions, and shall remain in full force and effect unless amended or modified by mutual consent of the parties.

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**FORM ASSIGNMENT AND ASSUMPTION AGREEMENT**

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the parties to this Agreement had executed the same counterpart.

16. City Consent. City is executing this Agreement for the limited purpose of consenting to the assignment and assumption and clarifying that there is privity of contract between City on the one hand, and Assignee on the other, with respect to the Development Agreement.

17. Effective Date. The Effective Date of this Agreement shall be the date upon which Assignee obtains fee title to the Property and delivers evidence of the transfer to City ("Effective Date"). For the purposes of this Section, the evidence of transfer shall consist of a duly recorded deed and title report.

IN WITNESS WHEREOF, Assignor, Assignee, and City have entered into this Agreement as of the date first above written.

*[Signatures follow on separate page]*



**DRAFT**  
**FORM ASSIGNMENT AND ASSUMPTION AGREEMENT**

**ASSIGNOR**

**OYSTER POINT VENTURES LLC,  
a Delaware limited liability company**

By: SRI Nine Oyster Point LLC,  
a Delaware limited liability  
company,  
its Managing Member

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

*[Notary Acknowledgment Required]*

**ASSIGNEE**

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

*[Notary Acknowledgment Required]*

**CITY**

**CITY OF SOUTH SAN FRANCISCO,  
a municipal corporation**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
City Manager

*[Notary Acknowledgment Required]*

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

*DRAFT*  
*FORM ASSIGNMENT AND ASSUMPTION AGREEMENT*

**EXHIBIT NO. 1**

Property Legal Description

1614878.1

**Exhibit G**

**Public Benefit Facilities**

# EXHIBIT G

## PUBLIC BENEFIT FACILITIES

- A** STREETS & UTILITIES AT HUB (80% OF COSTS)
- B** CLAY CAP REPAIR AT CONVEYED PROPERTY
- C** BAY TRAIL AND PALM PROMENADE PHASE IC (FIXED CONTRIBUTION)
- D** STREETS & UTILITIES AT PHASES IIID-IVD
- E** RELOCATION OF SEWER PUMP STATION NO. 1
- F** LANDSCAPING AT BCDC AREA PHASES IIID-IVD



**Exhibit H-1**

**Areas Subject to Facilities Assessment**

EXHIBIT H-1

Area subject to Facilities  
assessment



**Exhibit H-2**  
**Public CFD Property**

**EXHIBIT H-2**

**PUBLIC CFD PROPERTY**



**SCALE: 1"=300'**

