

Meeting Date: 06/23/22
Lease Number: 6127
Staff: A. Franzoia

Staff Report 35

LESSEE/TRUSTOR:

Peninsula Owner LLC

SECURED PARTY LENDER/BENEFICIARY/TRUSTEE:

JP Morgan Chase Bank, N.A.

PROPOSED ACTION:

Authorize an Agreement and Consent to Encumbrance of Lease

AREA, LAND TYPE, AND LOCATION:

1.978 acres, more or less, of filled tidelands in San Francisco Bay adjacent to the Sanchez Channel and Burlingame Lagoon, Burlingame, San Mateo County.

AUTHORIZED USE:

Continued use and maintenance of a landscaped segment of the San Francisco Bay Trail including paved pedestrian walkways, bike trails, viewing areas, benches, trash containers, and commercial parking authorized by local and regional authorities.

TERM:

45 years, beginning July 1, 2021

CONSIDERATION:

\$27,551 per year, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 30, 2021, property located at 555 and 557 Airport Boulevard, Burlingame, APN 026-363-590, consisting of three commercial office buildings on 12.832 acres (Upland Property), transferred from EW-PG Airport Owner, LLC to the Lessee/Trustor.

On February 25, 2022, the Commission authorized a 45-year General Lease – Commercial Use to the Lessee/Trustor, for continued use and maintenance of a landscaped segment of the San Francisco Bay Trail including paved pedestrian walkways, bike trails, viewing areas, benches, trash containers, and commercial parking ([Item C31, February 25, 2022](#)). The Lessee maintains the portion of the Bay Trail within the lease area pursuant to the lease and San Francisco Bay Conservation and Development Commission requirements.

In 2022, the Lessee/Trustor obtained certain land use entitlements from the City of Burlingame for the development of the Peninsula Innovation Point consisting of an eight-story Office/Research and Development building; a six-level parking garage; new landscaped open space; and paved plazas which includes a portion of the paved parking area within the Lease Premises.

The Lessee/Trustor is applying for an Agreement and Consent to Encumbrance of Lease in favor of JP Morgan Chase Bank, N.A., the Secured Party Lender, in a loan amount not to exceed \$350 million. The purpose of the loan is for financing the construction of the new building, parking garage, and other improvements.

The encumbrance of the lease is a condition of the Secured Party Lender under the terms of a “Deed of Trust, Assignment of Rents and Lease, Security Agreement and Fixture Filing,” which provides that the Lessee, as Trustor, grants, transfers, and assigns to Trustee (JP Morgan Chase Bank, N.A.) all rights of the Trustor under all present and future leases, licenses, franchises, concessions, subleases, rental agreements, and other agreements for possession, use, or occupancy pertaining to any of the property.

The encumbrance of the lease would be implemented through a document, “Agreement and Consent to Encumbrance of Lease,” that would include protections for the State land associated with the lease. These protections include requirements that 1) no subsequent encumbrance of the lease shall be executed

without prior written consent of the Commission; 2) any transfer of the lease to a third party shall be subject to the prior written approval and consent of the Commission; 3) if the Secured Party-Lender becomes the lessee, it shall be bound by all terms and conditions of the lease; 4) any transaction requiring Commission approval and consent shall be void in the absence of such approval and consent; and 5) the duration of the encumbrancing agreement is limited to the term of the lease.

The encumbrance of the lease would not permanently alienate the State's fee simple interest in the underlying land, and it would not permanently impair public rights. Based on the foregoing, Commission staff believes that the Agreement and Consent to Encumbrance will not substantially interfere with Public Trust needs, at this location, at this time, or for the foreseeable term of the proposed lease.

The existing lease requires the Lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CONCLUSION:

For all the reasons above, staff believes that authorization of an Agreement and Consent to Encumbrance of Lease will not result in a change in the use of, or impacts to, Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Authorizing the agreement and consent to encumbrancing of lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not impact the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the Executive Officer or designee to execute the document titled "Agreement and Consent to Encumbrance of Lease," allowing Lessee's right, title, and interest in Lease 6127 to be pledged as partial security for a loan in the principal amount not to exceed \$350 million in favor of JP Morgan Chase Bank, N.A. in substantially the same form as that on file in the Sacramento office of the Commission, effective May 15, 2022; authorize the Executive Officer or designee to execute, acknowledge, accept, and record all related documents as may be reasonably necessary to complete the transaction.

EXHIBIT A

LEASE 6127

LAND DESCRIPTION

All that certain real property situate within the city of Burlingame, County of San Mateo, State of California, described as follows:

BEGINNING at the most Southerly corner of Lot 13 in Block 7, as shown on that certain map entitled "ANZA AIRPORT PARK UNIT NO. 7, CITY OF BURLINGAME, SAN MATEO COUNTY, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California, on January 15, 1979 in Book 98 of Maps at pages 90, 91, and 92; thence from said described point of beginning along the Southerly line of said Block 7, South 85° 44' 23" East 998.97 feet; thence South 31.11 feet to the most Southerly corner of said Block 7; thence along the Easterly line of said Block 7 North 64° 00' East 19.88 feet; thence North 0° 17' 00" West 689 .30 feet to the Northeasterly corner of Said Block 7; thence along the most Easterly line of Parcel "E", as said Parcel "E" is shown on that certain Parcel map entitled "PARCEL MAP BEING A RESUBDIVISION OF LOTS 5 AND 6, BLOCK NO. 8; ANZA AIRPORT PARK – UNIT NO. 6 (R.S.M. VOL. 70, PG. 35) BURLINGAME, SAN MATEO COUNTY, CALIFORNIA", which map was recorded in Book 41 of Parcel Maps at page 13, on February 10, 1973, in the office of the Recorder of San Mateo County, California; thence continuing along last said course along the said Easterly line of Parcel "E", North 0° 17' 00" West 80.55 feet to the Southeasterly corner of Parcel "D", as said Parcel "D" is shown on said described Parcel Map; thence along the South line of said Parcel "D", West 50.00 feet to a point; thence leaving said South line of Parcel "D", South 0° 17' 00" East 80.55 feet to a point on the Northerly line of said Block 7; thence continuing along last course, along a line within said Block 7, South 0° 17' 00" East 614.34 feet; thence North 85° 44' 23" West 971.30 feet to a point on the Easterly line of said Lot 13; thence along said Easterly line of said Lot 13 South 14° 49' 03" East 26.45 feet; thence South 4° 15' 37" West 25.00 feet to the said described point of beginning.

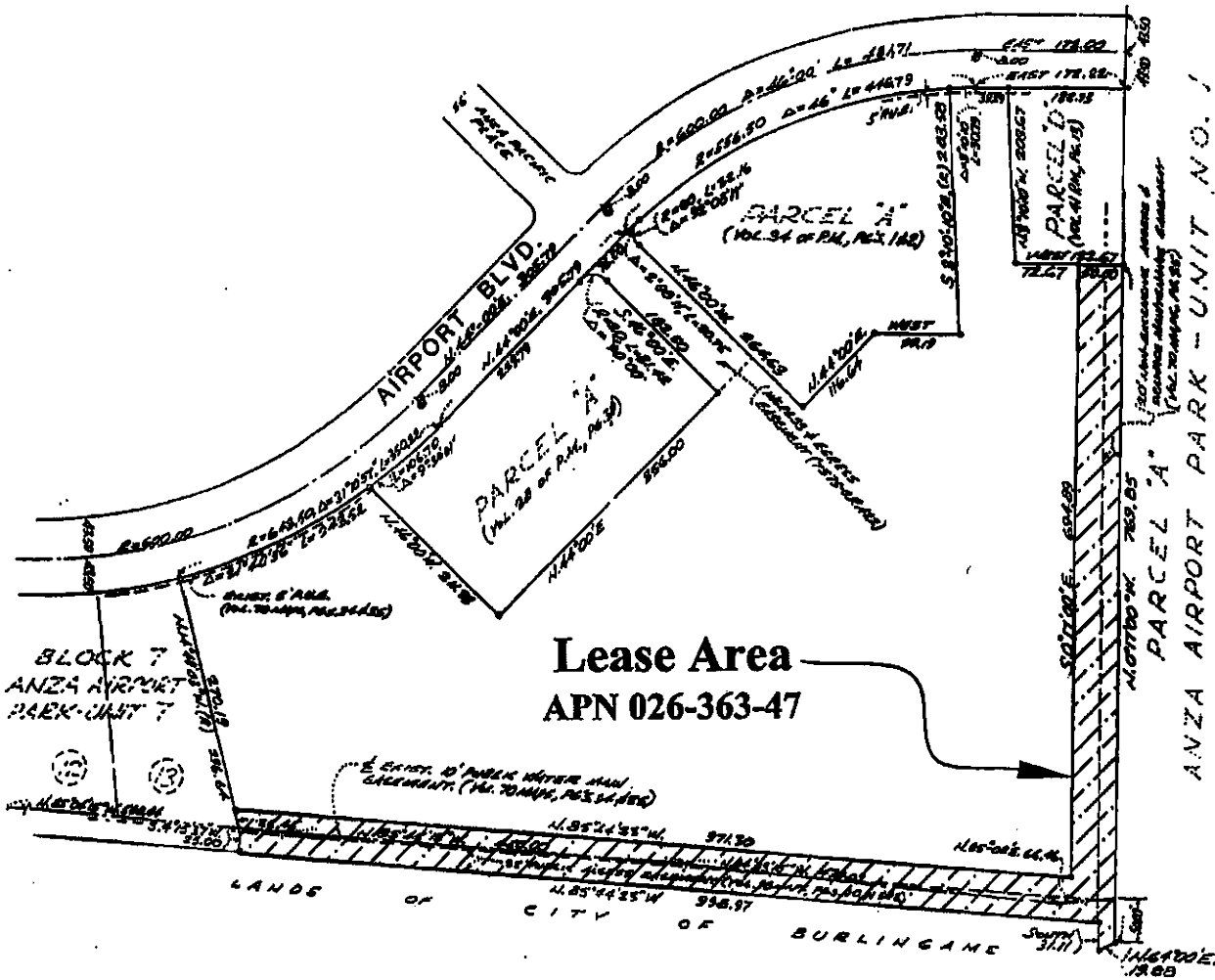
END OF DESCRIPTION

Prepared 2/2/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



ANZA PARK, CITY OF BURLINGAME

NO SCALE

LOCATION

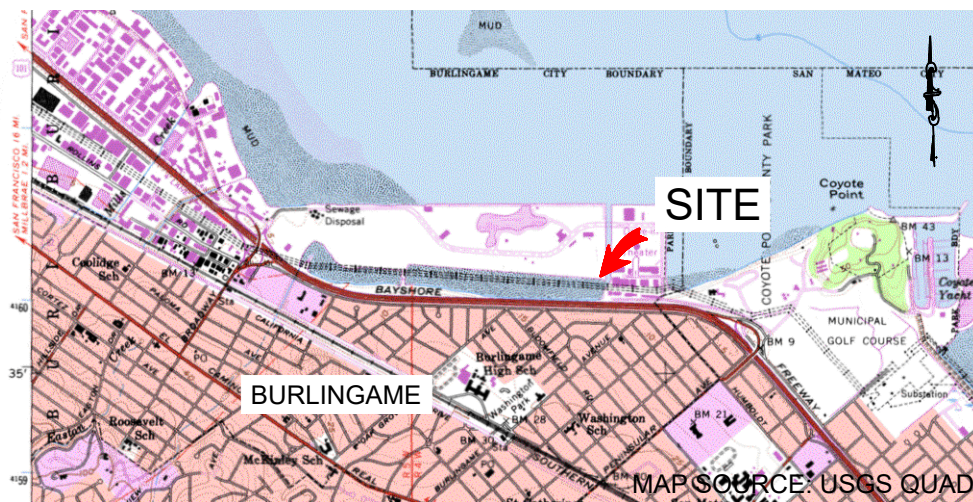


EXHIBIT B

LEASE 6127
 PENINSULA OWNER, LLC.
 APN 026-363-47
 GENERAL LEASE -
 COMMERCIAL USE
 SAN MATEO COUNTY



DJF 12/7/2021

THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.