

**STAFF REPORT  
C30**

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02/04/19  
PRC 9084.1  
A. Franzoia

**AMENDMENT OF LEASE**

**LESSEE:**

Burlingame Point LLC

**AREA, LAND TYPE, AND LOCATION:**

4.73 acres, more or less, of filled and unfilled sovereign land in San Francisco Bay, Burlingame, San Mateo County.

**AUTHORIZED USE:**

**Parcel A – East/West Parcel:** Improvements to and maintenance of a public roadway with at least 25 public parking spaces for access to the San Francisco Bay Trail, Fisherman’s Park driveway, and realigned Airport Boulevard improvements.

**Parcel B – North/South Parcel:** Improvements to and maintenance of the San Francisco Bay Trail including access to Fisherman’s Park, public utilities, shoreline protection, and realigned Airport Boulevard improvements.

**Parcel C – Fisherman’s Park Parcel:** Right of entry and construction of interim park improvements to Fisherman’s Park and a 12-month maintenance warranty.

**LEASE TERM:**

**North/South Parcel and East/West Parcel:** 49 years, beginning September 20, 2013.

**Fisherman’s Park Parcel:** 4 years and 8 days, beginning February 20, 2015, or upon completion of construction of interim park Improvements.

**CONSIDERATION:**

Annual rent of \$3,660 to be adjusted by the California Consumer Price Index on the fifth anniversary of the lease and every 5 years thereafter.

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**PROPOSED AMENDMENT:**

Extend the time for completion of Fisherman's Park interim improvements to February 3, 2022. All other terms and conditions of the lease shall remain in effect without amendment.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

**Public Trust and State's Best Interests Analysis:**

The lease area was conveyed to the State as part of Anza Pacific Boundary Line Agreement (BLA 131) in 1972 and is comprised of a strip of land adjoining the northern and eastern sides of commercial land privately owned in fee by the Lessee. This adjacent commercial land passed into private ownership as part of BLA 131 in the early 1970s. Both the land held by Lessee and the lease area are located in former tidal and marsh lands in San Francisco Bay that were subsequently filled. The lease area is subject to the Public Trust Doctrine.

On September 20, 2013, the Commission authorized a 49-year General Lease–Recreational, Protective Structure, and Right-of-Way Use to 350 Beach Road LLC for improvements to and maintenance of the San Francisco Bay Trail, access to Fisherman's Park, public utilities, public parking, shoreline protection, and realigned Airport Boulevard improvements ([Item C73, September 20, 2013](#)). Many of these improvements are required by the City of Burlingame and the Bay Conservation and Development Commission in conjunction with the development of the Burlingame Point office project.

On February 20, 2015, the Commission authorized an assignment to Burlingame Point LLC and an amendment to authorize a right of entry and construction of interim park improvements to Fisherman's Park, Parcel C, concurrently with shoreline and Bay Trail improvements to Parcel B. The improvements were to be completed by February 28, 2019 ([Item C51, February 20, 2015](#)).

Construction of the Burlingame Point office buildings started in 2016 with interim park improvements scheduled for completion after realignment of Airport Boulevard. Since construction along the shoreline cannot commence until after the new road is opened Lessee's schedule anticipates construction of the interim park improvements beginning in late 2019.

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Lessee has prepared interim park improvement plans, cost estimates, and hired a contractor to construct the improvements on Parcel C, in coordination with the Bay Trail and shoreline improvements on Parcel B, beginning in August with completion no later than November 2019, with a 12-month maintenance period. Lessee is applying for an amendment to extend the time for completion in the event of unforeseen delays.

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. The construction of the Bay Trail, improvements to the shoreline, public parking, and public utilities are Public Trust consistent. For all the reasons above, staff believes that the authorization of the lease amendment will not result in a change in the use of, or impacts to, Public Trust resources and is in the best interests of the State.

**Climate Change:**

Climate change impacts, including sea-level rise, will directly affect the entire San Francisco Bay region. Staff considered the high emissions scenario that models the energy sector throughout the 21<sup>st</sup> century using the most recent scientific findings. The high emissions scenario closely adheres to present-day emission levels and provides a conservative approach to planning and minimizing risk. By the end of the century, the high emissions scenario could result in 6.9 feet of sea-level rise.

These impacts could have potentially devastating economic, environmental, and social consequences in coastal areas due to their wide-ranging scope and scale. To protect Public Trust lands, resources, and values in the face of these threats, the Commission is committed to using the best available sea-level rise and climate change science and policy guidance from the State to inform its decision making on all projects on tidally influenced lands. In addition, adaptation strategies should be implemented that maximize public safety, environmental quality, economic sustainability, and hazard avoidance. The Commission has the responsibility to carefully evaluate all project proposals in coastal areas with climate resiliency and the protection of Public Trust lands and resources from sea-level rise and other climate change impacts in mind.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to

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apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

**Table 1. Projected Sea-Level Rise for San Francisco<sup>1</sup>**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise).

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the existing lease that is being amended, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change, including sea-level rise.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and with Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease amendment 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 amendment of Lease No. PRC 9084.1, a General Lease-Recreational, Protective Structure, and Right-of-Way Use, of filled and unfilled land in San Francisco Bay, Burlingame, San Mateo County, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof, effective February 4, 2019, to extend the time for completion of Fisherman's Park interim improvements to February 3, 2022; all other terms and conditions of the lease will remain in effect without amendment.

**EXHIBIT A**

**PRC 9084.1**

**LAND DESCRIPTION**

Three parcels of State owned land lying in the City of Burlingame, County of San Mateo, State of California, described as follows:

**PARCEL A**

Parcel 3 as described in Exhibit A of Grant Deed recorded in Book 6198, Page 76, Official Records of said County.

**PARCEL B**

The South 956 feet of Parcel 4 as described in Exhibit A of Grant Deed recorded in Book 6198, Page 76, Official Records of said County.

**PARCEL C**

Parcel 4 as described in Exhibit A of Grant Deed recorded in Book 6198, Page 76, Official Records of said County.

EXCEPTING THEREFROM the South 956 feet of said Parcel 4.

**END OF DESCRIPTION**

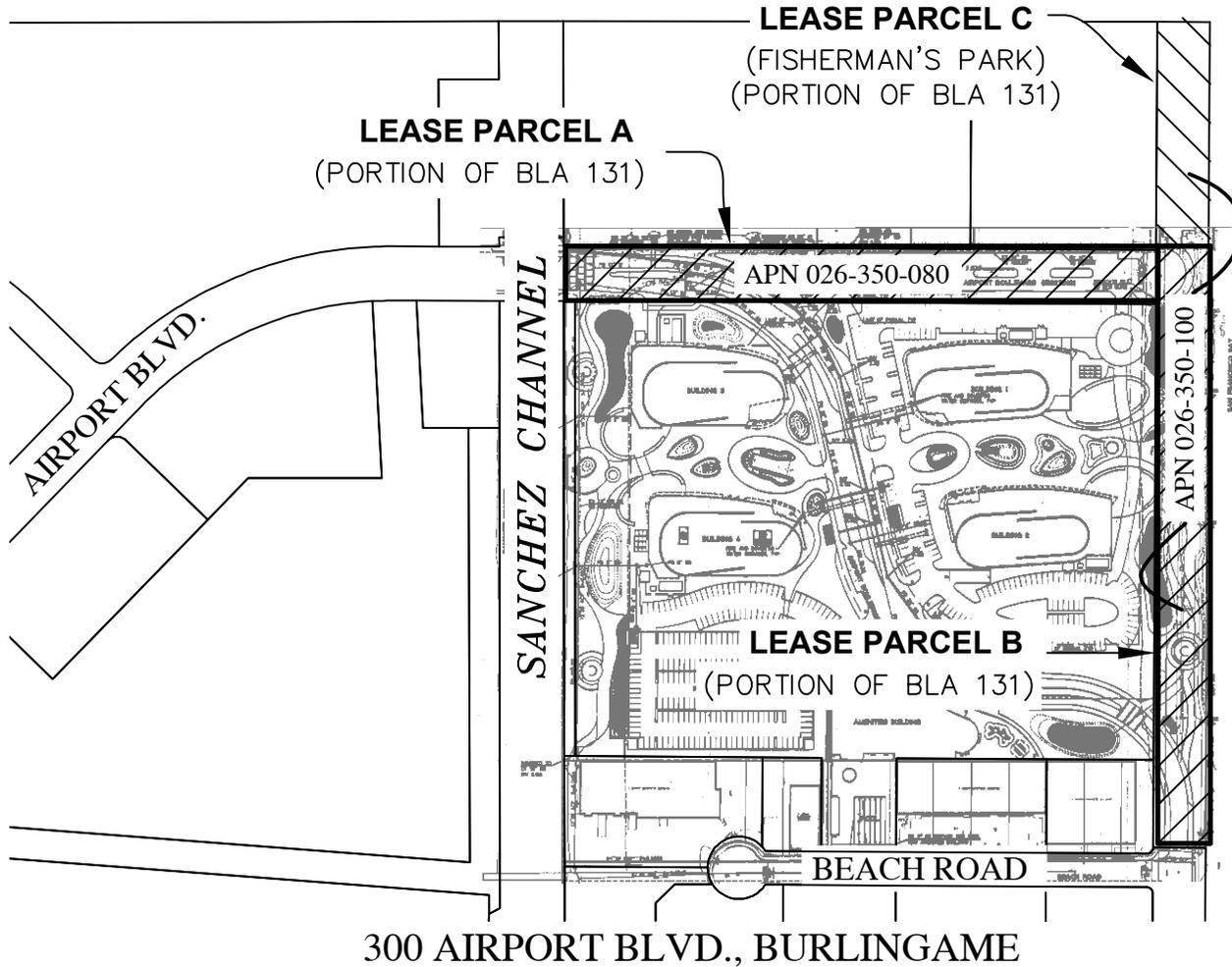
Prepared 2/10/2015 by the California State Lands Commission Boundary Unit.



NO SCALE

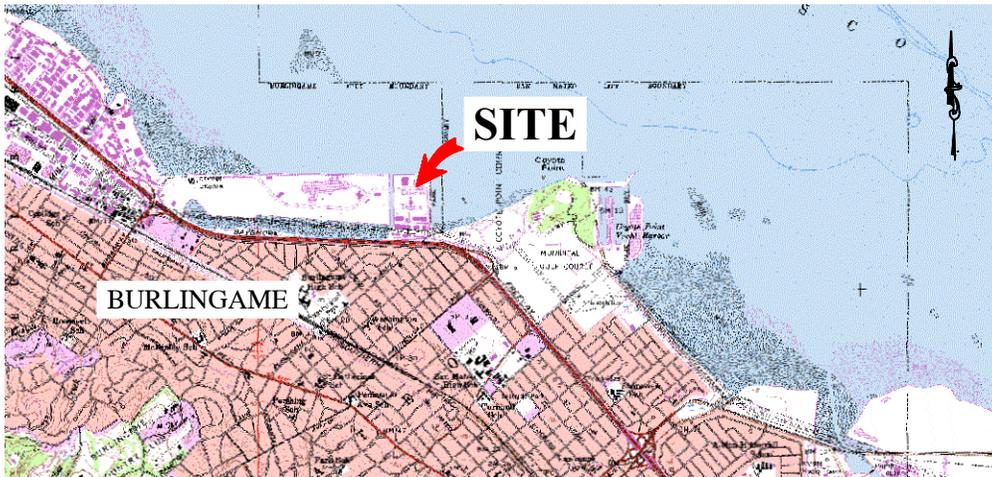
# SITE

## SAN FRANCISCO BAY



NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 9084.1  
 BURLINGAME POINT, LLC  
 APN 026-350-080 & 026-350-100  
 GENERAL LEASE -  
 RECREATIONAL, PROTECTIVE  
 STRUCTURE AND  
 RIGHT - OF - WAY USE  
 SAN MATEO COUNTY



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.