



**Lease Opportunity  
Request for Project Proposals  
410 Airport Boulevard, Burlingame**

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**May 22, 2019**

## **410 Airport Boulevard Lease Opportunity**

### **SCHEDULE**

All times are Pacific Standard Time

#### **ACTIVITY**

#### **DATE / TIME / LOCATION**

**Request for Project Proposals Release Date:**

Wednesday, May 22, 2019

**Deadline for submission of questions or requests  
for clarification:**

Friday, June 28, 2019 - 2:00 p.m.

**Submittal Deadline:**

Friday, July 26, 2019 - 2:00 p.m.

**Submittal Location:**

California State Lands Commission  
100 Howe Ave, Suite 100 South  
Sacramento, CA 95825  
Attn: Marlene Schroeder

**Estimated Date for Notification of Award:**

To Be Determined

**Estimated Short-Term Lease Presented to  
Commission:**

To Be Determined

This schedule is subject to change at the sole discretion of the State Lands Commission and/or its staff.

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## EXHIBITS

- EXHIBIT A-1 and A-2: Burlingame Vicinity Maps
- EXHIBIT B: Staff Report and Public Trust Needs Assessment
- EXHIBIT C: Biological Resource Analysis
- EXHIBIT D: Sample Short-Term Lease
- EXHIBIT E: Evaluation Criteria
- EXHIBIT F: Proposal Checklist with Attachments (Respondent to Submit)
  - SUBMITTAL A: Cover Letter
  - SUBMITTAL B: Application for Lease of State Lands
  - SUBMITTAL C: Proposal Fee
  - SUBMITTAL D: Reimbursement Agreement
  - SUBMITTAL E: Response to Evaluation Criteria
  - SUBMITTAL F: Statement of Ability to Comply with Governmental Requirements
  - SUBMITTAL G: Project Financial Pro Forma and Financial Feasibility Analysis
  - SUBMITTAL H: Sea Level Rise and Climate Change Adaptation Strategy
  - SUBMITTAL I: Short-Term and Long-Term Property Maintenance Plan and Budget
  - SUBMITTAL J: Labor Peace Agreement

## 1. THE OPPORTUNITY

The California State Lands Commission (Commission) is soliciting proposals from qualified respondents (Respondents) for the use of 9.4 acres of vacant state-owned land adjacent to San Francisco Bay at 410 Airport Boulevard (Property), in the City of Burlingame, San Mateo County.

The Commission holds more than four million acres of land in trust for the people of the state. The three-member commission, composed of the Lieutenant Governor, State Controller, and the Director of Finance, oversees the direct management of the state's ungranted tide and submerged lands and the beds of navigable rivers, lakes and other waterways. The Commission may lease lands under its jurisdiction for purposes that it deems advisable.<sup>1</sup>

The successful Respondent will have demonstrated the ability to design, finance, construct, operate and maintain a proposed use that is in the best interests of the state and consistent with the common law Public Trust Doctrine.<sup>2</sup> The successful Respondent will negotiate an Short-Term Lease and related documents for the use of the Property. The Commission intends to select a Respondent that will provide for the long-term maintenance of the Property, incorporate the best available science relating to sea level rise and climate change in its proposed design, operations and maintenance, and provides safe low-cost access to the Bay for all members of the public regardless of race, gender or socioeconomic status.

## 2. SITE SETTING

The Property is in the City of Burlingame (City), which is located on the San Francisco Peninsula with significant shoreline on the Bay, as depicted in the Burlingame Vicinity Maps (**Exhibit A-1 and A-2**). The shoreline provides expansive views of and access to the Bay and the San Francisco Bay Trail and is a commercially developed urbanized area. Surrounding uses include office buildings, hotels, airport parking lots, and bayfront parks. The Property is adjacent to a 10-acre tidal lagoon and is within 7 to 10 minutes driving time to the San Francisco International Airport (SFO).

At a public hearing on January 7, 2019, the City adopted the Envision Burlingame General Plan ([https://www.burlingame.org/departments/planning/general\\_plan\\_update.php](https://www.burlingame.org/departments/planning/general_plan_update.php)) giving the area a Bayfront Commercial designation, with a Maximum Intensity Floor Area Ratio (FAR) of 3.0. A goal of the update is for the Burlingame bayfront to become a regional recreation and business destination with enhanced access for pedestrians, cyclists, and watercraft, including commercial ferry service. Specifically, the Plan's Goal CC-5-1 supports and encourages commercial uses along the waterfront that enliven the area and serve as destinations for residents and visitors, including hotels, restaurants, and entertainment venues.

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<sup>1</sup> Public Resources Code section 6501.1.

<sup>2</sup> For more information on the Public Trust Doctrine, see the Staff Report and Public Trust Needs Assessment, attached as Exhibit B.

Adjacent to the Property at 350 Beach Road, a new 767,000 square foot office complex consisting of four buildings is currently under construction. Facebook's Oculus division has entered a long-term lease for the entire office complex. Facebook does not disclose the number of employees in their buildings; however, the buildings are designed for up to 3,500 employees. Also adjacent to the Property, at 60 Bay View Place, is Kincaid's Restaurant and the Anza Lagoon, which are located on state sovereign land held by the Commission.

### 3. THE PROPERTY

The Property is state-owned sovereign land that may not be alienated by the state. Sovereign land is impressed with the common law Public Trust Doctrine. Commission staff prepared a Public Trust Needs Assessment to assist the Commission in determining what uses for the Property meet the needs of the statewide public, are in the state's best interests, and align with the Public Trust Doctrine and the Commission's vision, mission, and strategic plan. All proposals should be informed by the Staff Report and Public Trust Needs Assessment (**Exhibit B**).

The Property is one of the few remaining vacant parcels fronting the San Francisco Bay and includes 1,000 feet of shoreline. This bayfront Property is located on the parcels identified as Assessor's Parcel Number 026-363-600 and a portion of 026-363-610. The Property is bounded by the San Francisco Bay on the north, Bay View Place and Kincaid's Restaurant on the west, Airport Boulevard on the south, and the Sanchez Channel on the east as shown on the Site Map (**Exhibit A-2**).

The improvements on Airport Boulevard, the southern boundary to the property, include curbs, gutters, sidewalks, curb cuts, fire hydrants, water, sewer, and storm drains. The Property is partially enclosed with a chain link fence. There is a fenced paved parking lot with two driveways blocked by concrete k-rails near the eastern boundary of the Property adjacent to the Sanchez Channel. There are lights in the parking lot, but electrical service has been disconnected. An unimproved segment of the Bay Trail is on the northern edge of the Property near the shoreline revetment, which is comprised predominantly of broken concrete. The Federal Aviation Administration owns and operates a tower near the northside of the parking lot that is leased by the Commission.

A Phase 1 Site Assessment has not been completed. A Biological Resource Analysis, dated November 9, 2015, was prepared by Monk and Associates for the City (**Exhibit C**).

The property is approximately 11 feet above sea level. Under present sea level conditions, the site and surrounding parcels are at low risk of flooding, with slightly increased risk during a 100-year storm or King Tide event. By the end of the century, the high emissions scenario could result in 6.9 feet of sea level rise. During a 20-year or 100-year storm event, the model<sup>3</sup> shows the shoreline completely flooded, as well as most of the Property and Airport Boulevard adjacent to

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<sup>3</sup> The Our Coast Our Future Flood Map was used to model sea-level rise impacts (<http://data.pointblue.org/apps/ocof/cms/index.php?page=flood-map>).

the site. (For more information about sea-level rise, please refer to Exhibit B, Public Trust Needs Assessment, p. 21.)

#### 4. KEY LEASE TERMS

Commission staff shall present the successful Respondent's proposal to the Commission, which will decide, in its sole discretion, whether to authorize a lease and the terms of any lease.

Anticipated key lease terms are listed below:

##### **Short-Term Lease**

- **Term:** The successful Respondent will be required to enter a Short-Term Lease, which Commission staff will recommend to not exceed three years, for planning, conducting due diligence, California Environmental Quality Act (CEQA) preparation, and entitlement purposes.
- **Annual Rent:** \$40,537 per year, subject to an annual Consumer Price Index increase.
- **Permitted Use:** The permitted use of the Property for the Short-Term Lease will be property maintenance and repair. This shall include but not be limited to annual removal of fire fuels (grasses, overgrown vegetation), pruning, repair and maintenance of the Bay Trail (filling voids, leveling surface), repairing fences, removing exposed rebar in shoreline concrete, removing sharp exposed edges from concrete revetment, installing trash receptacles along the Bay Trail, removing trash and debris weekly.
- **Indemnification and Insurance:** The Short-Term Lease will include required insurance and an indemnification provision protecting the Commission.
- **City Entitlements:** The Lessee will be required to prepare and submit a City Planning Commission Application, or other applicable City application dependent on the project proposed, for the project within 6 months of the beginning date of the Short-Term Lease.
- **Environmental Review:** The Commission must comply with CEQA through the preparation of an environmental analysis. No proposed project will be approved until the requirements of CEQA have been met. Based on Respondent's proposed project, the successful Respondent will have to provide an additional deposit to the Commission, in an amount to be determined, for the Commission to prepare an environmental analysis as lead agency under CEQA.
- **Compliance with the Law:** The Lessee must comply with all local, state, and federal permitting requirements and other laws. Respondent is solely responsible for determining which permits and approvals shall be required for the construction or operation proposed at the Property and for obtaining such permits and approvals.

## Long-Term Lease

- Term: During the Short-Term Lease, a Long-Term Lease will be negotiated that shall in no event exceed 49 years. Commission staff may recommend to the Commission that the Long-Term Lease be for a minimum term of 20 years.
- Permitted Use: The permitted use shall be the use of the Property proposed by the successful Respondent, including the required elements as listed in this section and as further negotiated and authorized by the Commission. The permitted use shall be in the best interests of the state and consistent with the Public Trust needs of the area. The property shall be used to serve statewide and regional goals, as opposed to uses for purely local benefit.

Safe public recreational access to the Bay and Bay Trail improvements are required as a primary use of the property, including recreational open space with restrooms and parking, Bay Trail access, and water access with access for water-based recreation. The permitted use shall also include long-term maintenance for the Property. The rehabilitation or replacement of the existing shoreline protective structure and Bay Trail segment to minimize state liability risk and facilitate climate change resiliency.

- Minimum Annual Rent and Gross Revenues and Sales of Business: Each Respondent will propose a minimum annual rent.
- Climate Change and Sea Level Rise: The Lessee shall acknowledge that the Property is in an area that may be subject to effects of climate change, including sea-level rise. The Lessee shall assume the risks associated with such potential hazards and agrees to be solely responsible for all damages, costs, and liabilities arising as a result of the impacts of such hazards of the Property. The Long-Term Lease is also anticipated to include site specific adaptation and resiliency measures related to climate change and sea level rise.
- Indemnification and Insurance: The Long-Term Lease will include required insurance and an indemnification provision protecting the Commission.
- Compliance with the Law: The Lessee must comply with all local, state, and federal permitting requirements and other laws. Respondent is solely responsible for determining which permits and approvals shall be required for the construction or operation proposed at the Property and for obtaining such permits and approvals.

A sample of a Short-Term Lease (**Exhibit D**) is provided for Respondent to review standard lease language. However, any authorized lease may be substantially different from the sample Short-Term Lease to a) reflect requirements associated with the specific project approved by the Commission; and b) reflect the business terms negotiated between successful Respondent and the Commission.





## 5. SUBMITTAL REQUIREMENTS

For a Respondent's proposal to be deemed responsive to this Request for Project Proposals (RFPP) it must be complete, accurate and contain all the information requested below. A proposal submitted with incomplete or missing forms, inaccurate or misstated information, or received after the Submittal Deadline shall be deemed non-responsive and be rejected. After a proposal has been submitted, no modifications to the proposal will be allowed.

### **Required Proposal Content**

Five physical copies and a digital copy of the submittals requested below shall be submitted to the Commission by the Submittal Deadline. All proposals and other communications from interested parties shall be open to inspection by the public upon request immediately after a lease has been authorized by the Commission unless Commission staff find that it meets the disclosure exemption requirements of the California Public Records Act (PRA). If a Respondent is unsure if its confidential or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its proposal. The proposal should include the following submittals:

- A. Cover Letter:** Respondent shall submit a letter of introduction and executive summary of the proposal. The letter shall be signed by a person authorized by the proposing entity to obligate the entity to perform the commitments contained in the proposal. Submission of the letter shall constitute a representation by the Respondent that the Respondent is willing and able to perform the commitments contained in the proposal.
- B. Application for Lease of State Lands:** The submission of a complete lease application shall be deemed evidence that the Respondent has carefully examined the sample Short-Term Lease (**Exhibit D**) and can comply with the Key Lease Terms and other responsibilities and obligations provided in this RFPP.
- C. Proposal Fee:** Respondent must submit a non-refundable Proposal Fee in the Amount of \$2,500.00. The Proposal Fee may be in the form of a CHECK, MONEY ORDER OR CREDIT CARD. Please call, 916-562-0026, for credit card payments.
- D. Reimbursement Agreement:** Respondent must submit a signed Reimbursement Agreement (**Submittal D**) and a Processing Fee in the amount of \$100,000.00. The refundable Processing Fee will be held until one Respondent is selected. At such time the unsuccessful Respondents will be refunded the Processing Fee in full. The selected Respondent's Processing Fee will be used to reimburse staff costs associated with processing the lease application. Additional funds may be required.
- E. Response to Evaluation Criteria:** Respondent must submit all information requested in the Evaluation Criteria (**Exhibit E**) and must be in the format provided in **Exhibit E**, identifying each item by letter and number.

- F. Statement of Ability to Comply with Governmental Requirements:** Successful Respondent will be required to obtain permits from applicable local, state, and federal regulatory agencies having jurisdiction over the Property. The Respondent shall submit an executed Statement of Ability to Comply with Governmental Requirements demonstrating that there is nothing impeding the Respondent's ability to comply with such requirements should the Respondent be issued a lease.
- G. Project Financial Pro Forma and Financial Feasibility Analysis:** Respondent must submit a Project Financial Pro Forma with projections for the duration of the proposed Short and Long-Term Lease to demonstrate the Respondent's ability to successfully plan, develop and operate their proposal. The Pro Forma information will need to include Profit and Loss, Cash Flow, and Operating Expenses as it relates to the project and long-term use of the site. The Respondent will need to provide adequate financial detail on where the money will be spent for the project. The financial information should include details on the following (but not limited to): maintenance of the Property for the term of the Short-Term Lease, permitting, engineering, consultant, environmental documents, design plans, construction, and ongoing repair, maintenance, and operation of the site.
- H. Sea Level Rise and Climate Change Adaptation Strategy:** Respondents must detail how the project will adapt to climate change and sea-level rise based on the projections detailed in the attached Staff Report and Public Trust Needs Assessment (**Exhibit B**) through the year 2100.
- I. Short-Term and Long-Term Property Maintenance Plan and Budget:** Respondents must discuss how they will maintain the property during the Short-Term and Long-Term Leases and submit a maintenance plan and budget for each.
- J. Labor Peace Agreement:** Respondent shall submit an executed commitment to enter into a Labor Peace Agreement for this property if it is determined by Commission staff to be a visitor serving, hospitality-based project.

## **6. EVALUATION AND AWARD PROCESS**

To participate in the RFPP process, each Respondent must submit its proposal prior to the Submittal Deadline and as specified in the RFPP. At any stage of the process, Commission staff or Commission's consultants may contact references and industry sources, investigate previous projects and current commitments, and perform other due diligence in order to confirm the qualifications of the Respondents. If at any stage, Commission staff determine that a proposal is inconsistent with the Public Trust Doctrine, it will not be eligible for further consideration in the Evaluation or Award Process and shall be rejected. In addition, if at any time, Commission staff determine that a proposal does not include safe public recreational access to the Bay and Bay Trail improvements as a primary use of the property, including recreational open space with restrooms and parking, Bay Trail access, and water access with access for water-based recreation, it will not be eligible for further consideration in the Evaluation or Award Process and shall be rejected.

### **Initial Screening Process**

Commission staff will review each proposal in an Initial Screening Process for its determination of responsiveness. The following elements will be reviewed: proposal completeness, compliance with format requirements and compliance with the common law Public Trust Doctrine. If Commission staff determine that a proposal is inconsistent with the Public Trust Doctrine, it will be rejected. The Initial Screening does not involve scoring but is a pass/fail determination as to whether a proposal meets the threshold requirements described above. A proposal that fails to meet these requirements will not be eligible for consideration in the Evaluation Process described below.

The Commission reserves the right to request clarification from a Respondent prior to rejecting a proposal for failure to meet the Initial Screening requirements. Clarification will be limited exchanges between the Commission staff and Respondent for the purposes of clarifying certain aspects of the proposal and will not give the Respondent the opportunity to revise or modify its proposal. Proposals that meet the Initial Screening requirements shall continue to the Evaluation Process described below.

### **Evaluation Process**

The written submittals will be reviewed and evaluated by a panel selected by Commission staff, consisting of up to 10 individuals with collective experience in managing and selecting Public Trust use opportunities, referred to as the "Advisory Panel." The Advisory Panel will be advised by Commission staff or Commission's independent consultants who will independently analyze the business plans, financial submittals and other related financial qualifications of Respondents.

The Advisory Panel will review, evaluate and score all written proposals that meet the Initial Screening requirements. This Evaluation Process will be scored using the Evaluation Criteria shown in **Exhibit E** and is worth up to 100 points.

### **Oral Interview**

Up to 10 of the highest-ranking qualified Respondents will be invited to an oral interview with the Advisory Panel. The interview will consist of standard questions asked of each of the invited Respondents. The oral interview will be scored using the Evaluation Criteria shown on **Exhibit E** and is worth up to 100 points. Respondents that complete the oral interview will be notified of their total combined proposal and oral presentation scores. The highest scoring Respondent will continue to the Award Process.

### **Award Process**

The Commission, through its Executive Officer or their designee will award the opportunity to the highest-scoring applicant. The successful Respondent will be notified by electronic mail of the award and the results will also be posted on the Commission's website. After award of the opportunity, Respondent and the Commission will enter Short-Term Lease negotiations for a

period not to exceed 60-days from award and may be extended at the discretion of the Commission's Executive Officer.

After this period, Commission staff will present the project to the Commission, which will decide, in its sole discretion, whether to authorize a lease and under what terms. If an agreement for the lease cannot be reached with the successful Respondent, the second highest scoring Respondent will be considered, continuing down the list until an agreement is reached.

### **Objections to the RFPP**

Should a prospective Respondent object on any ground to any provision or legal requirement set forth in the RFPP (including all Exhibits and all Submittals), including but not limited to objections based on allegations that: (i) the RFPP is unlawful in whole or in part; (ii) one or more of the requirements of the RFPP is onerous, unfair or unclear; (iii) the structure of the RFPP does not provide a correct or optimal process for the solicitation of a lessee; (iv) the RFPP contains one or more ambiguity, conflict, discrepancy or other error; or (v) the RFPP unnecessarily precludes alternatives to the subject opportunity, the prospective Respondent must provide timely written notice of objection as set forth below.

**An objection must be received in writing to the Commission no later than 5:00 p.m. on June 6, 2019.** The objection shall state the basis for the objection, refer to the specific requirement or portion of the RFPP at issue, and shall describe the modification to the RFPP sought by the prospective Respondent. The objection shall also include the name, address, telephone number, and email address of the person representing the prospective Respondent.

Commission staff, at its discretion, may make a determination regarding an objection without requesting further documents or information from the prospective Respondent who submitted the objection. Accordingly, the initial objection must include all grounds of objection and all supporting documentation or evidence reasonably available to the prospective Respondent at the time the objection is submitted. If the prospective Respondent later raises new grounds or evidence that were not included in the initial objection, but which could have been raised at that time, then Commission staff may not consider such new grounds or new evidence.

Upon receipt of a timely and proper objection, Commission staff will review the objection and investigate as it deems appropriate. As part of its investigation, Commission staff may consider information provided by sources other than the prospective Respondent. At the completion of its investigation, Commission staff will provide a written determination to the prospective Respondent who submitted the objection. If required, Commission staff may extend the proposal Submittal Deadline to allow sufficient time to review and investigate the objection and issue addenda to incorporate any necessary changes to the RFPP.

Objections not received within the time and manner specified will not be considered. A Respondent's failure to provide the Commission with a written objection as specified above on or before the time specified above shall constitute a complete and irrevocable waiver of the ground(s) of objection and forfeit the Respondent's right to raise such ground(s) of objection

later in the procurement process, in a Government Code Claim, or in other legal proceedings. A Respondent may not rely on an objection submitted by another Respondent but must timely pursue its own objection.

### **Protest of Non-Responsiveness**

Any entity that has submitted a proposal and believes that the Commission has incorrectly determined that its proposal has failed the Initial Screening Process and has been deemed non-responsive may submit a written notice of protest. **Such notice of protest must be received by the Commission on or before the fifth working day following the Commission's issuance of the notice.** Protests not received in the time and manner specified will not be considered.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent and must cite the law or RFPP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the Commission to determine the validity of the protest.

### **Protest of Award**

Any Respondent who submitted a responsive proposal that was evaluated during the evaluation process and believes that the Commission has unfairly selected another Respondent may submit a written notice of protest.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent and must cite the law or RFPP provision on which the protest is based. In addition, the Respondent must specify facts and evidence sufficient for Commission staff to determine the validity of the protest. **All protests must be received by the Commission on or before the fifth working day following the Commission's notice.** The Respondent submitting the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other Respondents who may be adversely affected by the outcome of the protest.

The Commission shall provide affected Respondent(s) with five working days from their receipt of the protest to submit a written response to the protest. Commission staff, in its discretion, may make a determination regarding a protest without requesting further documents or information from the Respondent who submitted the protest. Accordingly, the initial protest must include all grounds of protest and all supporting documentation or evidence reasonably available to the prospective Respondent at the time the protest is submitted. If the Respondent later raises new grounds or evidence that were not included in the initial protest, but which could have been raised at that time, then Commission staff may not consider such new grounds or new evidence.

Upon receipt of a timely and proper protest, Commission staff will review the protest and conduct an investigation as it deems appropriate. As part of its investigation, Commission staff

may consider information provided by sources other than the protesting and affected Respondent(s). Commission staff may also consider supplemental correspondence or other information relating to the original ground(s) of protest submitted by a protesting Respondent and/or an affected Respondent(s) to the extent Commission staff determines that such information will assist it in resolving the protest.

At the completion of its investigation, Commission staff will provide a written determination to the Respondent who submitted the protest, with a copy to the affected Respondent(s). Protests not received within the time and manner specified will not be considered. A Respondent may not rely on a protest submitted by another Respondent but must timely pursue its own protest.

The procedures and time limits set forth in this section are mandatory and are a Respondent's sole and exclusive remedy in protesting a lease award to another Respondent. Failure to comply with these protest procedures shall constitute a complete and irrevocable waiver of the ground(s) of protest and forfeit the Respondent's right to raise such ground(s) of protest later in the RFPP process, in a Government Code Claim, or in other legal proceedings.

#### **Delivery of Objections and Protests**

If an objection, protest or response to a protest is mailed, the Respondent or affected Respondent(s) bears the risk of non-delivery within the deadlines specified above. Objections, protests and responses to protests should be transmitted by a means that will objectively establish the date the Commission received the objection, protest or response. Objections, protests, notice of protests, and responses to protests made orally (e.g., by telephone) will not be considered. Objections, protests and responses to protests must be delivered to:

California State Lands Commission  
Legal Department  
100 Howe Ave, Suite 100 South  
Sacramento, CA 95825  
ATTN: Chief Counsel  
Email: Burlingame@slc.ca.gov

#### **7. OTHER TERMS AND CONDITIONS**

##### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Commission, in accordance with Federal and State law and Commission policy, does not discriminate regardless of age, ancestry, color, disability (mental and physical), exercising the right to family care and medical leave, gender, gender expression, gender identity, genetic information, marital status, medical condition, military or veteran status, national origin, political affiliation, race, religious creed, sex (includes pregnancy, childbirth, breastfeeding and related medical conditions), and sexual orientation in employment or in the admission and access to its programs or activities.

### **Claims Against the Commission**

No Respondent will obtain any claim against the Commission by its response to the RFPP and, separately by its response waives, any or all of the following: any aspect of this RFPP, any part of the selection process, any informalities or defects in the selection process, the rejection of any or all submittals, the acceptance of any submittal, approval or disapproval of plans or drawings, entering into any transaction documents, the failure to enter into a lease, any statements, representations, acts, or omissions of the Commission, the exercise of any discretion set forth in or concerning any of the above, and any other matters arising out of all or any of the above.

### **Respondent's Duty to Investigate**

The Commission will convey the Property to the lessee in an "AS IS" condition. It is the sole responsibility of the selected Respondent to investigate and determine the condition of the Property, including existing and planned utility connections, and the suitability of the conditions for any proposed improvements and use.

The information presented in this RFPP, and in any report or other information provided by the Commission is provided solely for the convenience of the interested parties. It is the responsibility of interested parties to assure themselves that the information contained in this RFPP or other documents is accurate and complete. The Commission and its advisors provide no representations, assurances, or warranties pertaining to the accuracy of the information. Respondents are responsible for reviewing all portions of this RFPP and any other information provided by the Commission in relation to this RFPP.

### **Conditional Nature of Offering**

The Commission's issuance of this RFPP is not a promise, commitment or agreement that the Commission will authorize any lease for the use of the subject site. The Commission expressly reserves the right at any time to:

1. Waive any technical defect or informality in any submittal or submittal procedure that does not affect or alter the submittal's substantive provisions;
2. Reject any or all submittals;
3. Suspend any and all aspects of the process indicated in this RFPP;
4. Amend this RFPP;
5. Terminate this RFPP and issue a new request for interest, qualifications or proposals;
6. Request some or all Respondents to revise submittals;
7. Select a lessee by any other means;
8. Offer new leasing opportunities in the area at any time;

9. Extend deadlines for accepting submittals, or accept amendments to submittals after expiration of deadlines; or
10. Decide not to pursue this offering.

Commission staff may modify, clarify, and change this RFPP by issuing one or more written addenda. Addenda will be posted on the Commission's website and notice of the posting will be sent by electronic mail to each party receiving an RFPP. The Commission will make reasonable efforts to notify interested parties in a timely manner of modifications to this RFPP but each respondent assumes the risk of submitting its submittal on time and obtaining all addenda and information issued by the Commission. **Therefore, the Commission strongly encourages interested parties to register as an interested party and check the Commission's web page (<https://www.slc.ca.gov/lease-opportunity/burlingame/>) for updates to this RFPP frequently.**

#### **Respondent Selection Does Not Guarantee Project Approval**

The Commission's selection of a Respondent and authorization to negotiate a lease may not be construed as an approval of the proposed project. Changes to the proposed project may occur or be required during public review of the proposed project, during the approval processes that will follow environmental review under CEQA, and in response to other Commission, City, and public concerns that may arise. Those subsequent changes may require additional CEQA review if the changes have not already been analyzed. No staff of the Commission has authority to commit the Commission to any project.

If a project is found to cause significant adverse impacts, the Commission retains absolute discretion to require additional environmental analysis, and to: (1) modify the project to mitigate significant adverse environmental impacts; (2) select feasible alternatives that avoid significant adverse impacts of the proposed project; (3) require the implementation of specific measures to mitigate the significant adverse environmental impacts of the project, as identified upon environmental evaluation in compliance with applicable environmental law; (4) reject the project as proposed if the economic and social benefits do not outweigh otherwise unavoidable significant adverse impacts of the project; or (5) approve the project upon a finding that the economic and social benefits of the project outweigh otherwise unavoidable significant adverse impacts.

The Commission is issuing this RFPP in its capacity as a landowner with a proprietary interest in the Property, and not as a regulatory agency of the state. The Commission's status will not in any way limit any selected Respondent's obligation to obtain requisite approvals from local, state or federal entities with jurisdiction over a proposed project.



### **Financial Obligations**

Each Respondent is responsible for all costs incurred in responding to this RFPP, including being solely responsible for the payment of all fees to any real estate broker(s) with whom the Respondent has contracted. **The Commission has no financial responsibility for any costs incurred by a Respondent in responding to this RFPP and will not pay a finder's or broker's fee in connection with this RFPP.**

### **Submittals Become Commission Property**

All proposals submitted will become the property of the Commission and may be used by the Commission in any way the Commission deems appropriate.

### **Interpretation**

In this RFPP, where required by context, the singular includes the plural and vice versa, and the feminine gender includes the masculine and vice versa. Section and paragraph headings used in this RFPP are for reference only and are not to be used to interpret the provisions of this RFPP.

## **8. STATE LANDS COMMISSION**

The California State Lands Commission was established in 1938 and manages 4 million acres of tide and submerged lands and the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. These lands, often referred to as sovereign or Public Trust lands, stretch from the Klamath River and Goose Lake in the north to the Tijuana Estuary in the south, and the Colorado River and the world-famous Lake Tahoe in the east to the Pacific Coast 3 miles offshore in the west.

The Commission protects and enhances these lands and natural resources by issuing leases for use or development, providing public access, resolving boundaries between public and private lands, and implementing regulatory programs to protect state waters from oil spills and invasive species introductions. Through its actions, the Commission secures and safeguards the public's access rights to navigable waterways and the coastline and preserves irreplaceable natural habitats for wildlife, vegetation, and biological communities. The Commissioners, consisting of the California's Lieutenant Governor, State Controller, and the Governor's Director of Finance, oversee the management of sovereign state lands for the benefit of the people of California and act in its proprietary capacity as landlord with authority to authorize leases.