

**CALENDAR ITEM
C58**

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S 10

06/19/14
W 26756
J. Sampson

GENERAL LEASE - RIGHT-OF-WAY USE

APPLICANT:

OMP/I&G Creekside Investors, LLC

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Scott Creek, being a portion of Assessor's Parcel Number 519-0820-002-13, city of Fremont, Alameda County.

AUTHORIZED USE:

Installation, use, operation, and maintenance of new utility conduit pipelines totaling 90 diameter-inches within a bridge.

LEASE TERM:

25 years, beginning June 19, 2014.

CONSIDERATION:

\$3,649 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$5,000,000 per occurrence.

Bond:

1. Lease Performance Bond or other security in the amount of \$25,000.
2. Construction Performance Bond or other security in an amount equal to the construction cost of the new pipelines within the lease premises.

Other:

This lease contains special provisions related to pre-construction and post-construction project engineering review and verification.

OTHER PERTINENT INFORMATION:

1. The Applicant owns the uplands adjoining the lease premises. The Applicant, as the successor in interest to Fremont Industrial Partners,

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acquired nearby land holdings from the State through Title Settlement Exchange SLL 85. As part of SLL 85, the Applicant retained an easement to construct a bridge over sovereign land in Scott Creek. The pipelines and conduits in the proposed lease will be an integral part of the bridge, but because they are outside of the scope of the easement, they require a lease from the Commission for the portion that crosses Scott Creek.

2. The Applicant owns 426 acres nearby within the city of Fremont that have been, or will be, commercially developed in multiple phases in a project known as 'Creekside Landings'. As part of the 'Creekside Landings' 2009 development proposal, the city of Fremont was the lead agency for the development of an Environmental Impact Report (EIR) for the commercial district build-out and extension of Fremont Boulevard, connecting the city of Milpitas and city of Fremont. The extension of Fremont Boulevard, which is Phase II of the build-out, necessitates the building of the bridge over Scott Creek.
3. Utility service infrastructure will be integrated into Fremont Boulevard and the Scott Creek bridge. Specifically, the conduit pipeline will contain one 4-inch inside diameter (ID) gas pipeline, one 16-inch ID water pipeline, one 12-inch ID water pipeline, and two 6-inch ID electrical conduits, one 6-inch ID irrigation conduit, one 2-inch ID irrigation conduit, four 2-inch ID fiber optic conduits, two 3-inch ID traffic conduits, four 4-inch ID telephone conduits, and two 4-inch ID expansion conduits. Once infrastructure is fully operational, the Alameda County Water District, city of Fremont, Pacific Gas and Electric Company, AT&T, and Comcast will assume ownership of the facilities and will apply to the Commission for the assignment and amendment of the lease.
4. All infrastructure will be constructed in the same Right-of-Way as Lease No. PRC 9118.1. CSLC Lease No. 9118.1 construction and lease performance bonds will be used as security for this lease. The project installation on the lease premises will be a 'cast-in-place' technique, with the utility conduit being laid into the superstructure of the bridge deck during bridge construction. Construction is anticipated to occur in early summer 2014 and be completed within one year. All the utility lines will connect to existing lines on the Applicant's property.
5. An EIR, State Clearinghouse No. 2008042116, was prepared for this project by the city of Fremont (City) and certified on December 10, 2009. In addition, the City prepared an Initial Study/Addendum in 2013. The California State

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Lands Commission (Commission) staff has reviewed such documents and the Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the City. Commission staff has also reviewed the Findings and Statement of Overriding Considerations adopted by the City to support its approval of the Project despite the significant and unavoidable impacts.

6. Commission staff's review of the EIR and Mitigation Monitoring Program indicates there are no significant impacts anticipated from issuance of the Lease that is within the jurisdiction and approval authority of the Commission; therefore, adoption of a Mitigation Monitoring Program, Findings, and Statement of Overriding Considerations are not required by the Commission.
7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

City of Fremont
Union Sanitary District
Alameda County Water District
California Department of Fish and Wildlife
U.S. Fish and Wildlife Service

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2008042116, was prepared for this Project by the city of Fremont and certified on December 10, 2009, and in 2013 an Initial Study/Addendum was prepared by the city of

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Fremont, and that the Commission has reviewed and considered the information contained therein.

Determine that the Project, as described herein, will not have a significant effect on the environment.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to OMP/I&G Creekside Investors, LLC beginning June 19, 2014, for a term of 25 years, for the installation, use, maintenance, and operation of new conduit pipelines totaling 90 diameter-inches within a bridge over Scott Creek as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$3,649, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; liability insurance in an amount no less than \$5,000,000 per occurrence; a construction performance bond or other security in an amount equal to the construction cost of the new pipelines within the lease premises; and a lease performance bond or other security in an amount no less than \$25,000.

EXHIBIT A

W 26756

LAND DESCRIPTION

Two parcels of submerged land, lying in the bed of Scott Creek, situated in the City of Fremont, County of Alameda, State of California, more particularly described as follows:

PARCEL 1

COMMENCING at the intersection of Lakeview Boulevard and Fremont Boulevard as said intersection is shown on the Map of Tract 5187, recorded June 7, 1984 in Book 145 of Maps at Page 6, Official Records of Alameda County, California, said point being marked by a Standard City of Fremont Well Monument and Brass Disk stamped LS 3936, as shown on the Map of said Tract 5187, said point being the beginning of a curve to the right having a radius of 800.00 feet and to which point a radial line bears North 42° 24' 08" East;

Thence along said curve, through a central angle of 23° 54' 56", a distance of 333.92 feet thereon;

Thence South 23° 40' 58" East, 240.48 feet to the beginning of a curve to the left having a radius of 1000.00 feet;

Thence along said curve, through a central angle of 8° 37' 54", a distance 150.65 feet;

Thence South 32° 18' 50" East, 512.10 feet to the point on the northerly line of Scott Creek, described in Parcel 3 in the Grant Deed to the State of California recorded December 1, 1983 as Series No. 83-225688, Official Records of Alameda County, said point hereinafter referred to as Point "A";

Thence along said northerly line North 44° 39' 43" East, 25.66 feet to the POINT OF BEGINNING;

Thence continuing along said northerly line North 44° 39' 43" East, 31.83 feet; thence leaving said line South 32° 18' 50" East, 94.54 feet to the southerly line of Scott Creek described in said Grant Deed; thence along said southerly line South 65° 25' 11" West, 31.29 feet; thence leaving said line North 32° 18' 50" West, 83.16 feet to the POINT OF BEGINNING.

PARCEL 2

COMMENCING at a Point "A", as described in PARCEL 1 of this description, thence along the northerly line of Scott Creek described in said Grant Deed South 44° 39' 43" West, 30.79 feet to the POINT OF BEGINNING;

Thence leaving said northerly line South 32° 18' 50" East, 62.96 feet to the southerly line of Scott Creek; thence along said southerly line South 65° 25' 11" West, 30.78 feet; thence leaving said line North 32° 18' 50" West, 51.77 feet to the northerly line of Scott Creek; thence along said northerly line South 44° 39' 43" West, 31.30 feet to the POINT OF BEGINNING.

END OF DESCRIPTION

The above description is for Lease of State Lands for a proposed crossing, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 03/24/2014 by the California State Lands Commission Boundary Unit.



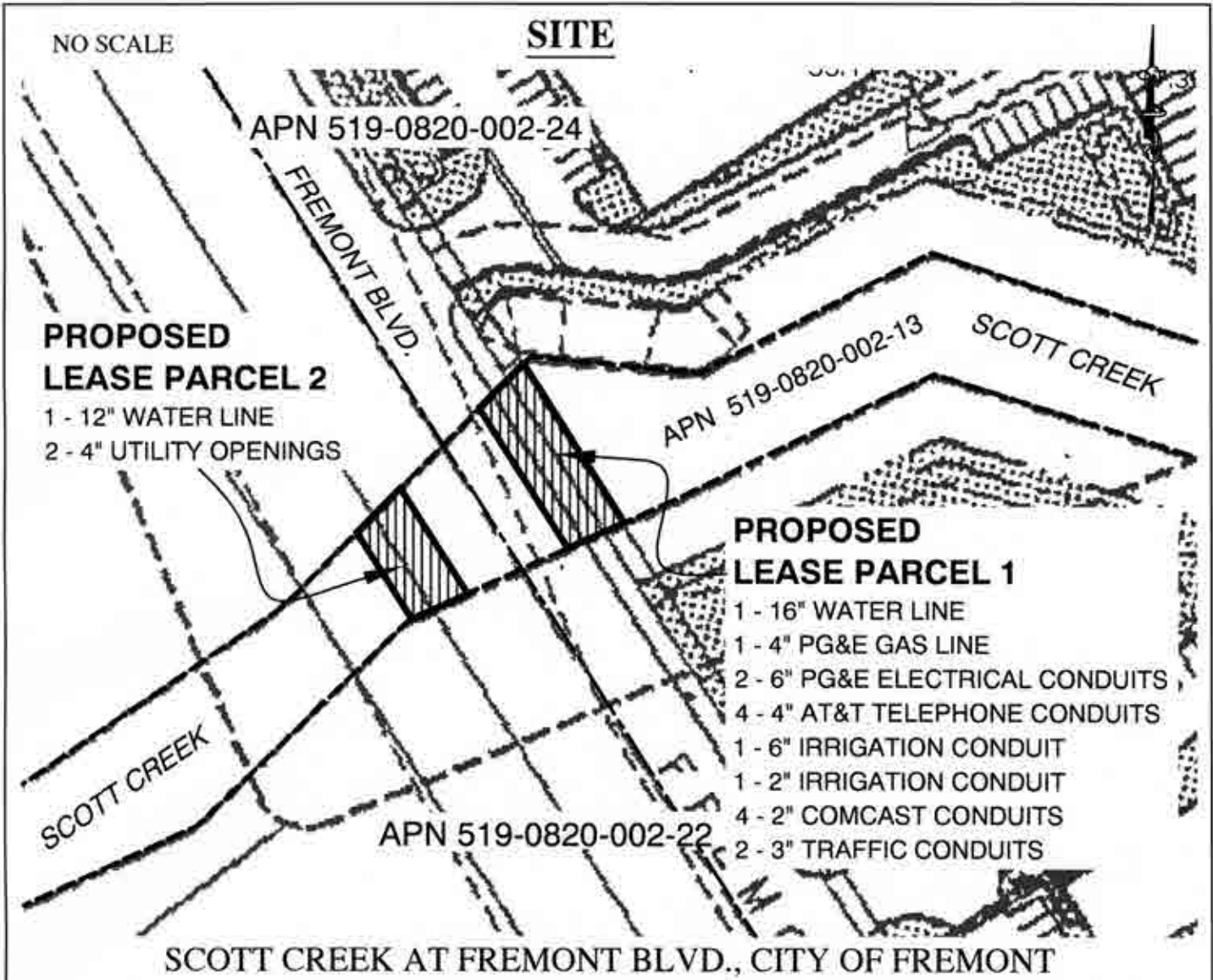


Exhibit B

W 26756

OMP/I & G CREEKSIDE INVESTORS, LLC

APN 519-0820-002-13

GENERAL LEASE - RIGHT-OF-WAY USE

ALAMEDA 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.