

**CALENDAR ITEM
C61**

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S 10

06/29/15
PRC 9118.9
W. Hall

**TERMINATION OF GENERAL LEASE – RIGHT OF-WAY-USE AND ISSUANCE OF
GENERAL LEASE – PUBLIC AGENCY USE**

LESSEE:

OMP / I&G Creekside Investors, LLC

APPLICANT:

Union Sanitary District

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Penitencia (Scott) Creek, Assessor's Parcel Number 519-0820-002-13, city of Fremont, Alameda County.

AUTHORIZED USE:

Continued use and maintenance of a 12-inch inside diameter sanitary sewer pipeline within a 30-inch inside diameter steel casing, beneath the bed of Penitencia (Scott) Creek.

LEASE TERM:

30 years, beginning June 29, 2015.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the uplands adjoining the lease premises.
2. On February 21, 2014, the Commission authorized a 20-year General Lease – Right of Way Use with OMP / I&G Creekside Investors, LLC, for the installation, use, maintenance, and operation of a 12-inch inside diameter sanitary sewer pipeline within a 30-inch inside diameter steel casing, installed using a micro-tunneling boring technique at a depth of 3½ feet beneath the bed of Penitencia (Scott) Creek.

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3. Upon completion of the construction of the sanitary sewer pipeline, the city of Fremont requires the pipeline be taken over by a public agency, for long-term maintenance and operation. Therefore, the Applicant is now applying for a General Lease – Public Agency Use. Staff recommends the termination of the existing lease and issuance of a new lease.
4. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

5. **Issuance of Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

6. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are “significant” by nature of their public ownership (as opposed to “environmentally significant”). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project’s consistency with the use classification as required by California Code of Regulations, Title 2, section 2954 is not applicable.

EXHIBITS:

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

CALENDAR ITEM NO. **C61** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease Termination: Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of Lease: 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 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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:

1. Authorize termination effective June 28, 2015, of Lease No. PRC 9118.1, a General Lease – Right-of-Way Use, issued to OMP/ I&G Creekside Investors, LLC.
2. Authorize issuance of a General Lease – Public Agency Use to Union Sanitary District beginning June 29, 2015, for a term of 30 years, for the continued use and maintenance of a 12-inch inside diameter sanitary sewer pipeline within a 30-inch inside diameter steel casing beneath the bed of Penitencia (Scott) Creek, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

EXHIBIT A

PRC 9118.9

LAND DESCRIPTION

A strip of submerged land two and a half (2.5) feet in width, lying in the bed of the Scott Creek, situated in the City of Fremont, County of Alameda, State of California, the centerline of which is more particularly described as follows:

BEGINNING at a point on the intersection of the centerline of an existing 12 inch sanitary sewer pipeline in 30 inch steel case and 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; thence along the centerline of said pipeline South 32°18'50" East, 72.14 feet, more or less, to the southerly line of Scott Creek described in said Grant Deed and being the POINT OF TERMINUS of said centerline.

The sidelines of said strip to be lengthened or shortened as to terminate at the northerly and southerly lines of Scott Creek described in said Grant Deed.

END OF DESCRIPTION

Prepared 06/22/2015 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

APN 519-0820-002-24

LEASE PARCEL
(EXISTING 12" SEWER
PIPELINE
IN 30" STEEL CASE)

APN 519-0820-002-13

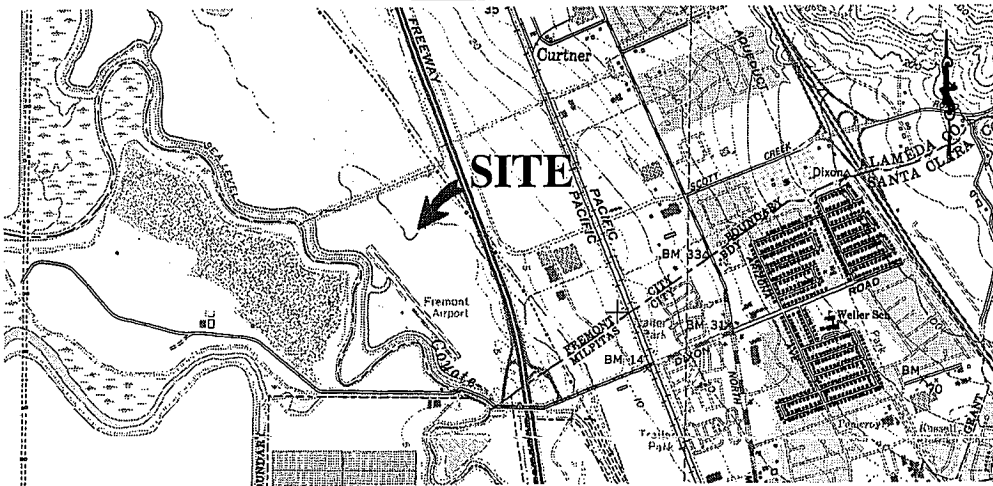
SCOTT CREEK

APN 519-0820-002-22

SCOTT CREEK AT FREMONT BLVD., CITY OF FREMONT

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 9118.9
UNION SANITARY DISTRICT
APN 519-0820-002-13
GENERAL LEASE -
PUBLIC AGENCY 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.

TS 06/22/15