

**CALENDAR ITEM
C21**

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02/05/07
WP 6127.1
J. McComas

**APPROVAL OF AN AMENDMENT OF LEASE,
ASSIGNMENT OF LEASE AS AMENDED, AND
AN ENCUMBRANCING OF LEASE AS AMENDED**

LESSEE/APPLICANT:

CA - Bay Park Plaza Limited Partnership
Two North Riverside Plaza, Suite 2100
Chicago, IL 60606

SECURED PARTY LENDERS:

Goldman Sachs Commercial Mortgage Capital, L. P.
Bear Stearns Commercial Mortgage, Inc.
Bank of America, N. A.
Citigroup Global Markets Realty Corp.
Column Financial, Inc. (an affiliate of Credit Suisse Group)
German American Capital Corporation
(an affiliate of Deutsche Bank Securities Inc.)
Morgan Stanley Mortgage Capital Inc.
Wachovia Bank, National Association

AREA, LAND TYPE, AND LOCATION:

1.978 acres, more or less, of filled tidelands in Anza Park, in the city of Burlingame, San Mateo County.

AUTHORIZED USE:

Lawful purposes consistent with local and regional plans, including landscaping, public access, parking, etc.

LEASE TERM:

24 years years, beginning July 1, 2006.

CONSIDERATION:

\$32,500 per annum, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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SPECIFIC LEASE PROVISION:

Liability insurance with coverage of no less than \$2,000,000.

PROPOSED AMENDMENTS:

The lease will be amended to provide for the annual rent to be adjusted each year by application of the Consumer Price Index (CPI). The adjusted annual rent will never be lower than the initial base rent of \$32,500. This CPI adjustment will continue until each tenth anniversary of the lease, when a new base rent may be established.

Paragraph 1 of Section 2 – Special Provisions will be deleted and replaced with the following:

1. Any installment of rental accruing under this Lease not paid when due shall be subject to a penalty in the amount of five percent.

Paragraph 3 of Section 2 – Special Provisions will be deleted.

All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On November 21, 2006, the Commission authorized a 24-year General Lease - Commercial Use to CA - Bay Park Plaza Limited Partnership. CA - Bay Park Plaza Limited Partnership is presently an equity holding of EOP Operating Limited Partnership (limited partner) and EOM GP, L.L.C. (general partner).
3. As a result of the corporate merger transactions and refinancing, the 1% general partner interest currently held by EOM GP, L.L.C. in the State's Lessee will be conveyed to a newly formed entity that is 100% owned by EOP Owner Holdings L.L.C. and the 99% limited partner interest currently held by EOP Operating Limited Partnership in the State's Lessee will be conveyed to EOP Owner Holdings L.L.C.
4. The Lease, as amended, defines an assignment requiring Commission approval to include any dissolution, merger, consolidation, or other

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reorganization of the Lessee or sale or other transfer of a percentage of capital stock of Lessee which results in a change of controlling persons. Through the Merger Transactions, the equity interests in the Lessee will be assigned to affiliates of EOP Partnership. This requires Commission approval as an assignment.

5. CA – Bay Park Plaza and its parent companies intend to enter into a financing agreement for the completion of the mergers and other costs, such as transaction costs relating to the mergers, less the aggregate amount of existing indebtedness that is not repaid or defeased at the time of the mergers. The Lessee and its parent companies have requested approval to encumber the leasehold interest as partial security for a loan in an amount not to exceed \$32 billion.
6. Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the Staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a “project” as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

EXHIBITS:

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

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

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AUTHORIZATION:

AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 6127.1, A GENERAL LEASE – COMMERCIAL USE, OF LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE FEBRUARY 5, 2007, TO AMEND THE LEASE TO (1) PROVIDE FOR ANNUAL ADJUSTMENT OF THE RENT BY APPLICATION OF THE CONSUMER PRICE INDEX, WITH A PROVISION FOR RESETTING THE BASE RENT ON EACH TENTH ANNIVERSARY OF THE LEASE, AND (2) AMEND THE PENALTY PROVISION OF THE LEASE FOR RENT FROM TEN PERCENT PENALTY TO FIVE PERCENT. ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.

AUTHORIZE THE ASSIGNMENT THROUGH A CORPORATE MERGER OF LEASE NO. PRC 6127.1, A GENERAL LEASE – COMMERCIAL USE, OF SOVEREIGN LANDS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, AS AMENDED AND FOLLOWING SIGNATURES OF THE AMENDED LEASE BY ALL NECESSARY PARTIES.

AUTHORIZE EXECUTION BY THE EXECUTIVE OFFICER OR HIS DESIGNEE OF AN “AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE” ALLOWING LESSEE’S RIGHT, TITLE, AND INTEREST IN LEASE NO. PRC 6127.1 TO BE PLEDGED AS PARTIAL SECURITY FOR A LOAN IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$32 BILLION, IN FAVOR OF GOLDMAN SACHS COMMERCIAL MORTGAGE CAPITAL, L. P.; BEAR STEARNS COMMERCIAL MORTGAGE, INC.; BANK OF AMERICA, N.A.; CITIGROUP GLOBAL MARKETS REALTY CORP.; COLUMN FINANCIAL, INC.; GERMAN AMERICAN CAPITAL CORPORATION; MORGAN STANLEY MORTGAGE CAPITAL INC.; AND WACHOVIA BANK, NATIONAL ASSOCIATION AS SECURED PARTY LENDERS, INCLUDING ESTOPPEL CERTIFICATES AS APPROVED BY COMMISSION STAFF.