

**CALENDAR ITEM
C71**

A 24
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12/02/13
PRC 7348.9
G. Kato

AMENDMENT OF LEASE

LESSEE:

City of Palo Alto
PO Box 10250
Palo Alto, CA 94303

AREA, LAND TYPE, AND LOCATION:

Filled sovereign lands in the city of Palo Alto, Santa Clara County

AUTHORIZED USE:

Development of portions of Byxbee Landfill Park, adjacent to Mayfield Marsh

LEASE TERM:

49 years, beginning September 27, 1989

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 interest.

PROPOSED AMENDMENT:

Amend the land description to include Phase IIC. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Applicant is the owner of the upland adjoining the lease premises.
2. The Byxbee Landfill Park is a 146-acre site, once used as a sanitary landfill operation. The landfill is being converted in phases to a passive park development.
3. On September 27, 1989, the Commission authorized issuance of Lease No. PRC 7348, a General Lease – Public Agency Use to the city of Palo Alto for development of portions of Byxbee Landfill Park. Phase I

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consisted of one-third of the site (approximately 46 acres) and was completed in August 1991.

4. On May 5, 1992, the Commission authorized issuance of an amendment to include Phase IIA which consisted of additional park improvements on 36 acres. Phase IIA was opened to the public on July 1, 2011.
5. On June 27, 2000, the Commission authorized issuance of an amendment to include Phase IIB which consisted of 10 acres. Phase IIB was opened to the public on December 1, 2011.
6. The Applicant is requesting an amendment to include Phase IIC into the lease. The activities proposed in Phase IIC are similar to those authorized by the Commission for Phase IIB and include: clearing of native vegetation and stripping approximately one to two inches of existing foundation layer soil; fine grading and re-compacting the soil; placement of evapotranspiration soil layer; hydro-seeding; perimeter drainage features; raising and securing existing environmental control systems and the construction of hiking trails and other park recreational features.
7. A Mitigated Negative Declaration, State Clearinghouse No. 2013082019, was prepared by the city of Palo Alto and adopted on September 11, 2013, for this project. The California State Lands Commission staff has reviewed such document.
8. A Mitigation Monitoring Program was adopted by the city of Palo Alto.
9. 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.

APPROVALS OBTAINED:

Regional Water Quality Control Board
California Department of Resources Recycling and Recovery
California Integrated Waste Management Board
Bay Area Air Quality Management District

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EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2013082019, and a Mitigation Monitoring Program were prepared by the city of Palo Alto and adopted on September 11, 2013, for this Project and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 7348.9, a General Lease – Public Agency Use, of filled sovereign land at Byxbee Landfill Park, adjacent to Mayfield Marsh, in the city of Palo Alto, Santa Clara County as described in Exhibit A attached and as shown on Exhibit B (for reference purposes only) and by this reference made a part hereof, effective December 2, 2013, to amend the land description to include Phase IIC; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 7348.9

LEGAL DESCRIPTION

LAND FILL BOUNDARY DESCRIPTION

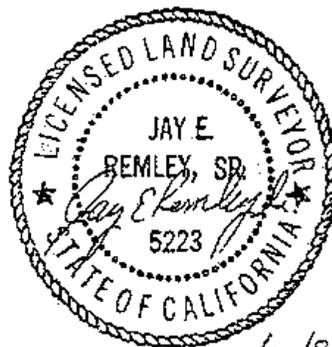
BEGINNING at a point South 42° 49' 46" East 896.41 feet from the southwesterly corner of PARCEL C as shown on parcel map entitled " RESUBDIVISION OF LANDS OF BAHR, LEDOYEN, ET. AL. EMBARCADERO WAY AT EMBARCADERO ROAD, KNOWN AS VACTITE SITE, CITY OF PALO ALTO CALIFORNIA " and filed June 8, 1971 in Santa Clara County Book 284 of Maps at Page 39;

THENCE N 46° 44' 10" E	558.26 feet;
THENCE N 38° 33' 25" E	277.28 feet;
THENCE S 38° 11' 56" E	107.79 feet;
THENCE S 70° 06' 50" E	37.78 feet;
THENCE N 39° 35' 43" E	40.82 feet;
THENCE N 54° 47' 29" E	21.90 feet;
THENCE N 81° 06' 00" E	23.45 feet;
THENCE S 80° 02' 07" E	20.29 feet;
THENCE S 71° 25' 45" E	25.14 feet;
THENCE S 67° 00' 25" E	229.16 feet;
THENCE S 71° 31' 35" E	199.19 feet;
THENCE N 84° 27' 50" E	210.16 feet;
THENCE N 63° 55' 11" E	290.78 feet;
THENCE N 31° 16' 28" E	259.68 feet;
THENCE N 23° 27' 07" E	256.25 feet;
THENCE N 13° 57' 45" E	294.47 feet;
THENCE S 27° 12' 25" E	486.53 feet;
THENCE S 20° 08' 50" E	347.06 feet;
THENCE S 17° 38' 56" W	496.06 feet;
THENCE S 07° 49' 05" W	324.26 feet;
THENCE S 00° 26' 30" W	416.41 feet;
THENCE S 30° 27' 25" W	320.12 feet;
THENCE S 42° 27' 35" W	385.97 feet;
THENCE S 35° 17' 22" E	401.22 feet;
THENCE S 37° 41' 22" E	302.22 feet;
THENCE S 10° 47' 05" W	520.13 feet;
THENCE S 38° 49' 20" W	234.30 feet;
THENCE S 73° 32' 35" W	390.07 feet;
THENCE N 73° 11' 35" W	262.66 feet;
THENCE N 18° 07' 03" W	429.80 feet;
THENCE N 53° 56' 07" W	110.58 feet;
THENCE N 74° 45' 32" W	62.68 feet;
THENCE S 74° 46' 59" W	263.45 feet;

THENCE S 62° 56' 54" W 60.72 feet;
 THENCE S 45° 22' 49" W 52.91 feet;
 THENCE S 23° 28' 07" W 84.26 feet;
 THENCE S 12° 22' 16" W 599.96 feet;
 THENCE S 40° 58' 37" W 28.17 feet;
 THENCE S 84° 10' 23" W 32.69 feet;
 THENCE N 76° 23' 06" W 281.33 feet;
 THENCE N 86° 25' 39" W 41.30 feet;
 THENCE S 70° 31' 24" W 18.21 feet;
 THENCE N 83° 13' 20" W 12.10 feet;
 THENCE N 33° 20' 24" W 20.06 feet;
 THENCE N 02° 57' 51" W 41.12 feet;
 THENCE N 00° 45' 30" W 248.38 feet;
 THENCE N 03° 18' 38" E 127.03 feet;
 THENCE N 12° 07' 40" E 409.19 feet;
 THENCE N 18° 53' 15" W 168.87 feet;
 THENCE N 00° 37' 20" E 1700.73 feet;
 THENCE N 37° 18' 37" W 153.51 feet to the point of BEGINNING.

Containing 137.028 acres of land more or less and being a portion of Section 32, T 5 S, R 2 W and Section 5, T 6 S, R 2 W, of the Mount Diablo Base And Meridian in the City of Palo Alto, County of Santa Clara, State of California.

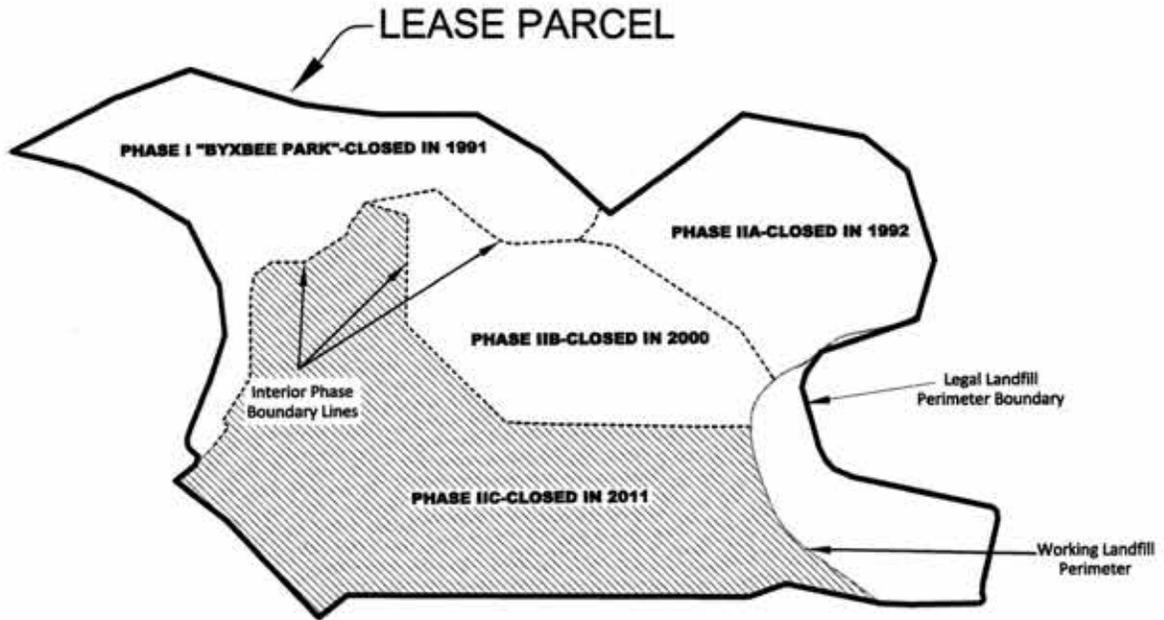
END OF DESCRIPTION



EXPIRES 6/30/91

NO SCALE

SITE



BYXBEE LANDFILL

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7348.9
 CITY OF PALO ALTO
 GENERAL LEASE -
 PUBLIC AGENCY USE
 SANTA CLARA 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.

DJF 11/14/2013

EXHIBIT C: MITIGATION MONITORING PROGRAM

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
<p>The project could impact protected species, including birds protected by the Migratory Bird Treaty Act, the burrowing owl, or the state and federal listed salt marsh harvest mouse.</p>	<p>Mitigation Measure #1: If feasible, project construction shall be scheduled outside of the bird nesting season. If project activities start between February 1 and August 31, a pre-construction survey for nesting birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation. The survey shall include a 250-foot radius around the construction area. The preconstruction survey shall take place no more than 7 days prior to initiation of construction. If an active nest is found, and project activities could cause nest abandonment by a bird protected under the Migratory Bird Treaty Act or California Fish and Game Code, the ornithologist shall, in consultation with the California Department of Fish & Wildlife, designate a construction-free buffer zone (typically 250 feet for raptors and 50 feet for other birds) around the nest.</p> <p>Mitigation Measure #2: The following steps shall be followed to avoid impacts to salt marsh harvest mouse:</p> <ol style="list-style-type: none"> 1. Time the removal of vegetation to avoid periods of high water in the adjacent wetlands which could force salt marsh harvest mouse to higher ground. This includes the hour before and after the high tide (typically early morning and late evening), and after a storm event that results in high water adjacent to the site. 2. A qualified biologist shall conduct a tail-gate training session to all construction personnel regarding protected species and habitats in the construction area, the limitations on areas that can be accessed on foot or with equipment, and the legal consequences of take of protected species or habitat. The training shall be conducted whenever new personnel start work at the site. 3. Dogs shall be prohibited from the work site. 4. Construction equipment and materials shall be staged in unvegetated areas away from the grassland slopes. 5. A barrier fence shall be installed between the Phase IIC closure area and the adjacent salt marsh that provides habitat for the salt marsh harvest mouse. The fence shall be designed and installed to prevent any SMHM in adjacent marshes from entering the work area during project construction. The areas outside of the exclusion fencing, except for existing roads, parking and other asphalt or concrete areas, 	<p>Implement mitigation measures and onsite monitoring</p>	<p>City of Palo Alto Public Works Department, Operations Division Manager, Solid Waste</p>	<p>Within 7 days before the start of construction if construction starts between Feb 1 and Aug 31</p>

EXHIBIT C: MITIGATION MONITORING PROGRAM

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	<p>shall be off-limits to construction activity and personnel at all times during project construction. The fence shall remain in place until vegetation has been removed from the outer slopes, and then shall be removed by a qualified biologist approved by the USFWS. The proposed fence design is silt fence with 4- to 6-inch wide flashing at the base that is imbedded into the soil. Fence installation shall avoid pickleweed and shall be completed by a qualified biologist approved by the USFWS.</p> <p>6. After exclusion fencing is installed, a qualified biological monitor shall walk all areas of vegetation immediately prior to removal. If a mouse of any species is found to occur on the project site, construction shall not proceed pending consultation with the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW). This is because it is not feasible to identify the mouse to species without handling it. Unless otherwise authorized, the mouse shall be left alone and allowed to move out of the area on its own. Vegetation shall not be removed when tides are high.</p> <p>7. A qualified biologist shall be present onsite to monitor for salt marsh harvest mouse during vegetation removal on the outer slopes adjacent to pickleweed marsh. The biological monitor shall have the authority to stop work if deemed necessary to protect the salt marsh harvest mouse or other state or federally protected species, and shall work directly with the project engineer and foreman. Prior to the start of work each day, the monitor shall thoroughly inspect the work area and adjacent habitat areas to determine if special-status species are present and shall remain onsite throughout the day while vegetation removal activities are occurring. If a mouse of any species is observed in the work area, then work shall stop until the mouse leaves the work area on its own, and the USFWS and CDFW shall be notified immediately. The biological monitor onsite shall determine whether construction activities are remote enough from the animal that it will not be harmed or harassed. If the mouse does not leave the construction zone, work shall not start again until after the USFWS and CDFW have provided guidance about how to proceed with construction activities.</p>			