

AGENDA REPORT

Resolution: Approval of the Assignment of Ground Lease Interest of Embarcadero Business Park, LLC from Mr. Ted Eden to Theodore A. Eden, Trustee, Eden Family Revocable Trust UTD for Property Located at 1900-2000 Embarcadero Road **(CRE)**

MEETING DATE: 2/22/2018

AMOUNT: \$1,100 One-Time Revenue

PARTIES INVOLVED: Embarcadero Business Park, LLC

SUBMITTED BY: Pamela Kershaw, Director of Commercial Real Estate

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

This matter is a request for approval of the assignment of ground lease interest from Embarcadero Business Park, LLC ("Lessee"), as successor to Theodore A. Eden, an individual and Dorothy E. Bergamaschi, an individual as tenants in common, at 1900 and 2000 Embarcadero Road to Theodore A. Eden, Trustee, Eden Family Revocable Trust UTD. Upon review of the information provided by the Lessee, staff believes that the Lessee's request for transferring membership interest will not affect the operational experience and financial wherewithal to perform all of the obligations required of the ground lease.

BACKGROUND

The property located at 1900 and 2000 Embarcadero Road was originally leased from the Port to Rocklin Industries on March 15, 1983, but was subsequently transferred by assignment with the Port's approval to Lessee on February 1, 1998. The premises contain two office buildings totaling approximately 251,322 square feet, known as Embarcadero Business Park, which are currently 96% leased with the County of Alameda as the anchor tenant along with various other office users in the buildings. On November 6, 2017, the Lessee submitted a request for Port approval to assign their interest in Embarcadero Business Park, LLC from the current individual to a trust for estate planning purposes.

Pursuant to the terms of the ground lease, prior written consent from the Port, as evidenced by a Resolution of its Board of Port Commissioners, is required to approve the transfer of any interest of the Lessee entity in Embarcadero Business Park, which consent shall not be unreasonably withheld.

A site map of the premises is attached as Exhibit A to this report for reference.

ANALYSIS

Port staff and the Lessee have been discussing this proposed change in membership interest of the Lessee for the past several weeks. All other existing terms of the lease will remain the same, other than the proposed assignment of Lessee membership interest. Based upon the information submitted as part of the Lessee's request to transfer ownership interest, staff believes that the financial wherewithal and operational experience for Embarcadero Business Park will remain the same with the proposed assignment to the proposed trust, and that the request meets the requirements for approval of a transfer of ownership interest for the subject ground lease.

BUDGET & STAFFING

The proposed transfer of ownership interest of the ground lease requires payment of a one-time processing fee and will add \$1,100.00 in revenue to CRE's FY 2018 operating budget. The proposed transfer of ownership interest will not have any impact on staffing as the current agreement is managed by existing Commercial Real Estate Division staff and will continue to be managed by existing staff upon approval.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters contained in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Plan (<http://www.portofoakland.com/pdf/about/strategicPlan2011-2015.pdf>)

- Goal A: Objective 1: Maximize the use of existing assets.
- Goal B: Objective 1: Retain existing customers and tenants.

LIVING WAGE

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply to this matter because tenancies outside of the Aviation and Maritime areas with entities that do not principally provide aviation or maritime services are excluded from the Living Wage Regulations.

ENVIRONMENTAL

CEQA: Execution of the proposed transfer of ownership interest is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 “Existing Facilities” of the CEQA Guidelines which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. This action is also exempt from the requirements of CEQA pursuant to Section 15300.4, which exempts the execution of leases or agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing. Approval of the proposed transfer of ownership interest of the lease falls within this class of exemptions. No additional environmental review is required to take the action recommended in this Agenda Report.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report, as they are not capital improvement construction projects.

OPTIONS

- Approve the requested change of ownership interest of the Lessee to Theodore A. Eden, Trustee, Eden Family Revocable Trust UTD. This is the recommended action.
- Do not approve the requested change of ownership interest of the Lessee to Theodore A. Eden, Trustee, Eden Family Revocable Trust UTD, which, pursuant to the terms of the ground lease, will require some justification to determine that such approval was not unreasonably withheld.

RECOMMENDATION

Staff recommends approval of the assignment of the ground lease interest of Embarcadero Business Park, LLC from Mr. Ted Eden to Theodore A. Eden, Trustee, Eden Family Revocable Trust UTD, and authorization for the Executive Director to execute such transfer of ownership interest documents, and any related documents or agreements, to effectuate this transaction, subject to the approval as to the form and legality of those documents by the Port Attorney. Furthermore, if the transfer of ownership interest documents are not fully executed within 30 days after Board approval and if the transfer of ownership interest is not fully effective within 30

days after Board approval, this approval shall be null and void, unless extended at the sole and absolute discretion of the Executive Director or his designee.

Attachment: Site Map of Embarcadero Business Park