

**STAFF REPORT
C28**

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12/03/18
PRC 9270.1
G. Asimakopoulos

ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Ruth Bego, Trustee of Declaration of Trust of Ruth Bego, dated July 19, 1985

APPLICANT/ASSIGNEE:

Carson B. Cox, Trustee of the Revocable Trust Agreement of Carson B. Cox dated November 13, 1999

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Corte Madera Creek, adjacent to 43 Greenbrae Boardwalk, near Greenbrae, Marin County.

AUTHORIZED USE:

Continued use and maintenance of two existing uncovered floating boat docks, two walkways, two ramps, and pilings.

LEASE TERM:

20 years, beginning December 18, 2015.

CONSIDERATION:

\$212 per year, with an annual Consumer Price Index adjustment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On December 18, 2015, the Commission authorized a General Lease – Recreational Use to Ruth Bego, Trustee of Declaration of Trust of Ruth Bego, dated July 19, 1985, for the use and maintenance of two existing uncovered floating boat docks, two walkways, two ramps, and pilings ([Item C74, December 18, 2015](#)). The lease will expire on December 17, 2035.

On June 14, 2018, ownership interest in the upland parcel was transferred to Carson B. Cox, Trustee of the Revocable Trust Agreement of Carson B.

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Cox dated November 13, 1999. The Applicant is now applying for an assignment of the lease and agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel from the Assignor to the Assignee. The assignment will be effective as of the date of transfer, June 14, 2018.

The lease assignment will not result in a change in the use of, or impacts to, Public Trust resources. Staff believes approval of this assignment will not substantially interfere with the common law Public Trust Doctrine and is in the best interests of the State.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Corte Madera Creek, a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises consist of two floating boat docks, two walkways, two ramps, and pilings.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise

Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the Corte Madera Creek’s inundation levels within the lease area. In addition, as stated in *Safeguarding California*

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Plan: 2018 Update (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers, creeks, and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease creek levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the pilings and dock. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The term of this General Lease – Recreational Use is 20 years, beginning December 18, 2015. The remaining 17 years of the lease may be subject to the climate change effects of the projected sea-level rise scenario provided above. Regular maintenance and implementation of best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation, dislodgement, or hazards from structures within the lease premises. Further climate change impact analyses on the leased facilities will be assessed at the time the lease expires in 2035 if an application is submitted for a new lease and would be based on projected sea-level rise scenarios at that time.

Conclusion:

Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the foreseeable term of the lease. For these reasons, staff recommends finding that approval of this assignment is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

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OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Assignment of the lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15378, subdivision (b)(5).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease No. PRC 9270.1, a General Lease – Recreational Use, of sovereign land as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof, from Ruth Bego, Trustee of Declaration of Trust of Ruth Bego, dated July 19, 1985, to Carson B. Cox, Trustee of the Revocable Trust Agreement of Carson B. Cox dated November 13, 1999; effective June 14, 2018.

EXHIBIT A

PRC 9270.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Corte Madera Creek, in the unincorporated area of Greenbrae, County of Marin, State of California, and being more particularly described as follows:

COMMENCING at the southwest corner of Parcel One as described in that certain Grant Deed recorded as Document No. 2018-0021360, Official Records of said county; thence along the northwesterly boundary of said parcel, North $36^{\circ} 07' 00''$ East 94.40 feet to the POINT OF BEGINNING; thence along said northwesterly boundary and northeasterly prolongation thereof, North $36^{\circ} 07' 00''$ East 48.95 feet; thence leaving said boundary prolongation the following five (5) courses:

- 1) North $56^{\circ} 48' 07''$ West 5.53 feet,
- 2) North $36^{\circ} 20' 05''$ East 56.30 feet,
- 3) South $55^{\circ} 37' 58''$ East 55.12 feet,
- 4) South $33^{\circ} 34' 26''$ West 34.12 feet,
- 5) North $62^{\circ} 45' 00''$ West 14.32 feet to northeasterly prolongation of the southeasterly boundary of said parcel;

thence along said prolongation and southeasterly boundary thereof, South $31^{\circ} 43' 00''$ West 69.44 feet; thence leaving said southeasterly boundary North $55^{\circ} 23' 53''$ West 42.50 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark on the right bank of said Corte Madera Creek.

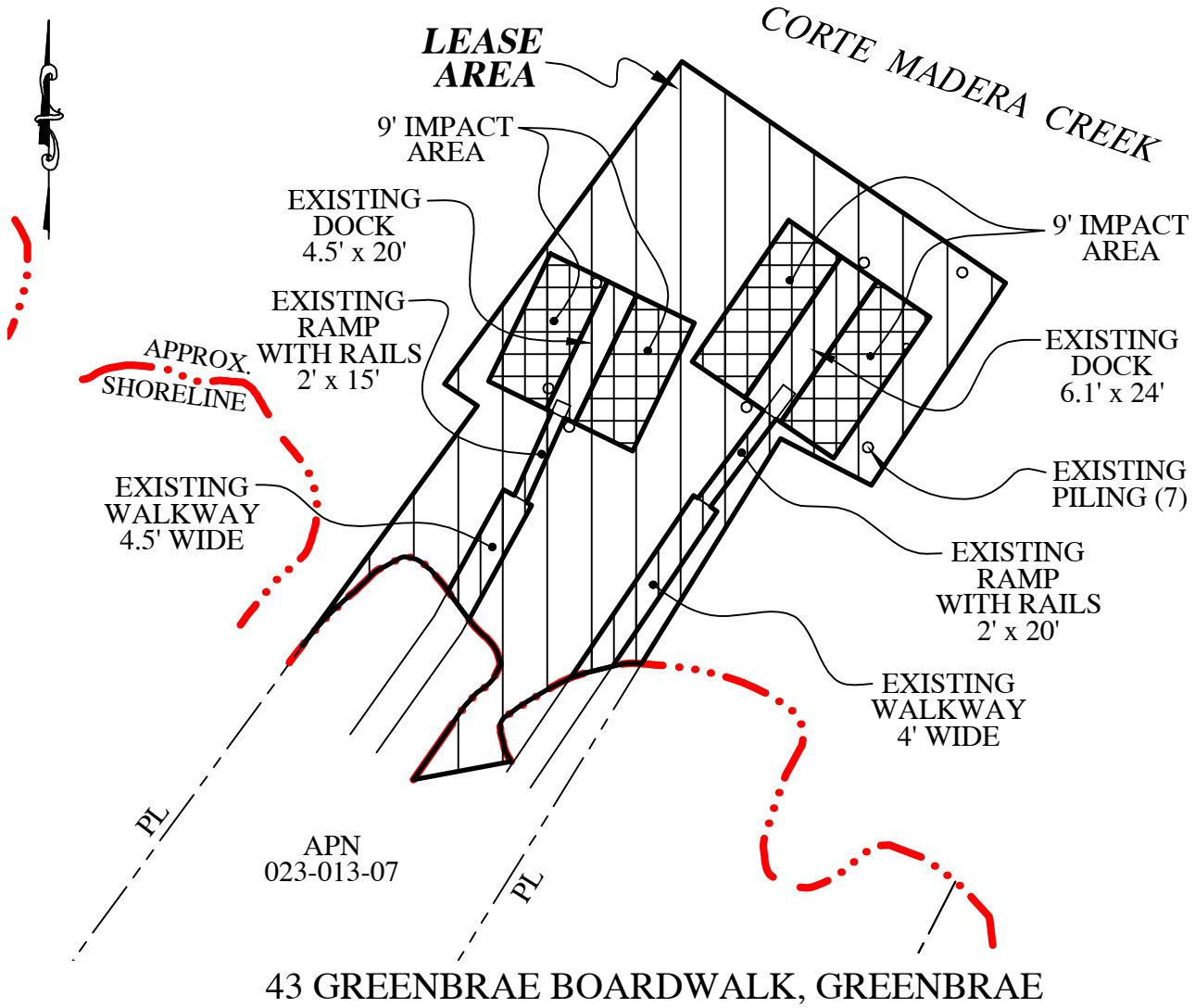
END OF DESCRIPTION

Prepared 10/30/2018 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 9270.1
 COX REVOCABLE TRUST
 APN 023-013-07
 GENERAL LEASE -
 RECREATIONAL USE
 MARIN 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.