

**CALENDAR ITEM
C76**

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S 10

12/02/13
PRC 3979.1
D. Simpkin

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

South Bay Yacht Club
P.O. Box 100
Alviso, CA 95002

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Guadalupe River (also called Alviso Slough), near the town of Alviso, Santa Clara County

AUTHORIZED USE:

Continued use and maintenance of docking and moorage facilities.

LEASE TERM:

Five years, beginning June 19, 2013.

CONSIDERATION:

\$1,756 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$1,000,000 per occurrence.

Surety Bond:

\$10,000

Other:

1. Public access to be provided to and through the Lease Premises for the general public.
2. Submission of a work plan within the first 3 years of the term of the lease.

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3. The lease contains provisions that the Lessee must implement the Commission's "Best Management Practices for Marina Owners/Operators" and incorporate the Commission's "Best Management Practices for Guest Dock Users and Boaters" into Lessee's berth rental agreements, including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. In addition to the inclusion of the BMPs for Guest Dock Users and Boaters into the berth rental agreements, the Lessee shall post such publication in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease and tri-annually thereafter, a report on compliance with all BMPs.

OTHER PERTINENT INFORMATION:

1. Lessee owns or has the right to use the uplands adjoining the lease premises.
2. On August 3, 1994, the Commission authorized a General Lease – Commercial Use to the South Bay Yacht Club for docking and moorage facilities in the Guadalupe River/Alviso Slough. On September 13, 2007, the Commission considered the termination of the lease for failure to maintain the lease premises in a safe condition and to provide public access as required by the lease. The Commission gave the Lessee an additional 90 days to cure the defaults. On March 25, 2008, the Commission authorized an extension of the period to cure the defaults. Subsequent to the Commission's authorization, the Lessee cured all defaults. The lease expired on June 18, 2013. The Applicant is now applying for a new General Lease – Commercial Use.
3. A majority of the lease premises has been severely impacted by bulrush and cattails that has resulted in the Applicant's inability to utilize a large portion of the docking and mooring areas. Furthermore, the existing docks are in need of significant repair. The Santa Clara Valley Water District (SCVWD) has proposed a restoration project within Alviso Slough that would include dredging and vegetation removal. The Applicant has indicated that as part of this proposed project the existing docks would be removed to accommodate the restoration project. The existing pilings would remain in place and would be reused. The docking facilities would then be replaced with new floating facilities using the existing pilings. A portion of the Applicant's yacht club facilities extend to the east of the

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- Commission's jurisdiction within Alviso Slough onto lands owned by the SCVWD and are subject to a lease with the SCVWD.
4. The SCVWD has submitted an application to the Commission for the proposed project, but the application remains incomplete. At this time, it is uncertain whether the SCVWD will be able to secure the necessary regulatory permits and authorizations to carry out the project. The SCVWD is continuing to work toward addressing the regulatory issues.
 5. Due to the uncertainty of the future of the SCVWD's restoration project, Commission staff is recommending the issuance of a five-year lease with the Applicant. The Applicant will be required to submit a detailed work plan by June 19, 2016, outlining the renovation and/or replacement of the existing facilities located on the lease premises, or the removal of deteriorated slips and related facilities that are unavailable for use, and renovation and/or replacement of the remaining mooring facilities. Upon staff's written approval of the work plan, the Applicant is required under the terms of the lease to submit an application for an amendment of the lease to authorize the work under the work plan and provide for a long-term lease.
 6. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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:

Authorize the issuance of a General Lease – Commercial Use to the South Bay Yacht Club beginning June 19, 2013, for a term of five years, for the continued use and maintenance of docking and moorage facilities as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,756, with the State reserving the right to fix a different periodically during the lease term, as provided in the lease; liability insurance in the amount no less than \$1,000,000 per occurrence; and surety bond in the amount of \$10,000.

LAND DESCRIPTION

A parcel of tide and submerged land and of State-owned swamp and overflowed lands within portions of the bed of the Simonds Canal and the bed of the Guadalupe River, both being portions of the Alviso Slough, adjacent to the Town of Alviso, in the City of San Jose, County of Santa Clara, California, being more particularly described as follows:

COMMENCING at found 1" iron bar monument in a square City of San Jose monument box at the centerline intersection of Catherine Street and Hope Street, shown on the record of survey filed in Book 515 of Maps at Page 31 as a standard City of San Jose monument to have been set at the time of street construction after the date of the map, records of Santa Clara County; thence N 89°01'32" W along the centerline of Catherine Street, 26.00 feet to the northerly prolongation of the westerly right of way of Hope Street; thence S 00°56'33" W along the northerly prolongation of the westerly right of way of Hope Street, 30.00 feet to the northerly line of Block 150 of the "Plan of the Western Section of Alviso" filed in Book A of Maps at Page 45, records of Santa Clara County, being at the intersection of the southerly right of way of Catherine Street and the westerly right of way of Hope Street; thence continuing S 00°56'33" W along the westerly right of way of Hope Street, 172.51 feet to the northerly line of Lot 1 of Block 150 of the "Plan of the Western Section of Alviso"; thence N 89°03'09" W along the northerly line of said Lot 1 and the westerly prolongation thereof, 125 feet, more or less to a point on the right (easterly) bank of the Simonds Canal, being the POINT OF BEGINNING;

Thence continuing N 89°03'09" W along the westerly prolongation of the northerly line of said Lot 1, 3 feet, more or less to the northeasterly corner of Lot 8 of Block 149 of the "Plan of the Western Section of Alviso"; thence continuing N 89°03'09" W along the northerly line of said Lot 8 and the westerly prolongation thereof, 91 feet, more or less to the center of the main channel of the Alviso Slough; thence S 15°21' E along the centerline of the main channel of the Alviso Slough, 217 feet; thence leaving the centerline of the main channel of the Alviso Slough, S 29°07' E, 234 feet; thence S 09°26' E, 82 feet, more or less to the northeasterly line of the parcel described in the Grant Deed from Leslie Salt Co. to the Santa Clara Valley Flood Control and Water District, filed in Book 6891 at Page 363 of the Official Records of Santa Clara County; thence southeasterly along the northeasterly boundary of said Santa Clara Valley Flood Control and Water district parcel the following two (2) courses:

1. S 68°33'25" E, 5.30 feet, and
2. S 48°09'25" E, 112.63 feet

Thence leaving the northeasterly boundary of said Santa Clara Valley Flood and Water District parcel N 09°26' W, 248 feet; thence N 29°07' W, 123 feet, more or less to the right (northeasterly) bank of the

Alviso Slough, approximately where the right bank of the Simonds Canal meets the right bank of the historic channel of the Guadalupe River; thence in a generally northwesterly direction along the right (northeasterly and easterly) bank of the Alviso Slough and Simonds Canal, 235 feet, more or less to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portions lying landward of the ordinary high water mark of the Alviso Slough.

The bearings of this description are based on the California Coordinate System (83), Zone 3.

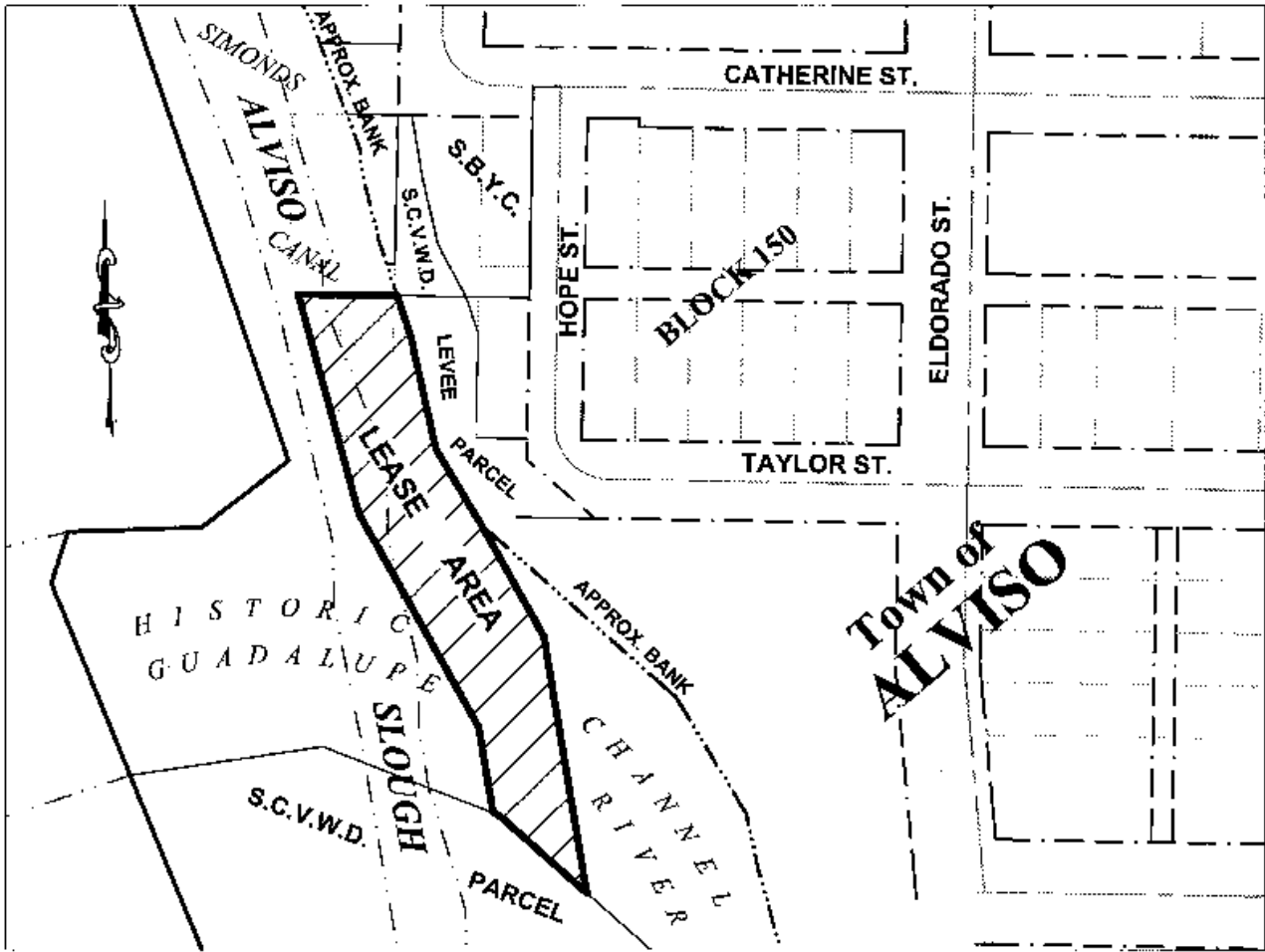
END DESCRIPTION



EVA
AUG 08 / 2013

NO SCALE

SITE



South Bay Yacht Club, Alviso Slough

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3979.1
 GENERAL LEASE -
 COMMERCIAL USE
 TOWN OF ALVISO
 CITY OF SAN JOSE
 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.