

**CALENDAR ITEM
C88**

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S 16

12/18/15
PRC 8996.1
R. Collins

AMENDMENT OF LEASE

LESSEES:

John Anthony Tesoriero and Kimberly Joan Tesoriero, Trustees of the John and Kimberly Tesoriero Family Trust

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Colorado River, adjacent to 1134 Beach Drive, city of Needles, San Bernardino County.

AUTHORIZED USE:

Use and maintenance of existing stairs, concrete boardwalk, and riprap bankline located on State sovereign land.

LEASE TERM:

10 years, beginning May 24, 2012.

CONSIDERATION:

Stairs and Concrete Boardwalk: Public use and benefit, subject to compliance with unobstructed pedestrian ingress, egress, and regress from the adjacent Public Pedestrian Access Easement.

Riprap Bankline: Public use and benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the best interest of the State.

PROPOSED AMENDMENT:

Amend the Lease to:

1. Allow for the construction, use, and maintenance of an aluminum stairway and gangway with railing, and a floating boat dock with a railing on the southeasterly side of the dock;
2. Prohibit the mooring of all watercraft on the southeasterly side of the dock;

CALENDAR ITEM NO. **C88** (CONT'D)

3. Authorize two existing planter areas with rock retaining walls not previously authorized by the Commission;
4. Revise the annual rent from the public use and benefit to \$259 per year, beginning May 24, 2016, to include the existing and new improvements;
5. Include Special Provisions related to the construction of the improvements; and
6. Replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, with new Exhibits A and B.

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

BACKGROUND:

On May 24, 2012, the Commission authorized the issuance of Lease No. PRC 8996.1, a General Lease – Recreational and Protective Structure Use to John Anthony Tesoriero and Kimberly Joan Tesoriero, Trustees of the John and Kimberly Tesoriero Family Trust, for a period of 10 years, for the use and maintenance of existing stairs, concrete boardwalk, and riprap bankline.

On August 14, 2012, as a result of numerous comments received following the issuance of boat dock leases on the Colorado River in the Rio Buena Vista (RBV) community in the city of Needles, the Commission suspended leasing activity for new boat docks and directed staff to conduct an analysis of the Public Trust needs in the area and report back to the Commission. In October 2012, Commission staff visited the site, held a public meeting in the RBV community and took comments on issues of importance from the owners and residents.

At the December 5, 2012 Commission meeting, staff presented its report on the Public Trust needs in the Colorado River at the RBV community (Calendar Item 85). The report recognized the existence of two sandy beaches that are used extensively throughout the year by both riverfront and inland residents of the community, as well as general members of the public. The report also indicated that if boat docks were authorized for all beachfront owners, the Public Trust needs, values, and uses of the recognized beach areas would be significantly impacted. The Commission authorized staff to resume processing applications for boat docks in the RBV community on a case-by-case basis consistent with the Commission's practices on leasing on inland waterways and the Public Trust needs identified in the area.

CALENDAR ITEM NO. C88 (CONT'D)

On February 22, 2013, Commission staff brought Lease No. PRC 8996.1 to the Commission to amend the consideration for the stairs to be the public use and benefit, consistent with the Commission's direction for leasing in the RBV community provided on December 5, 2012.

On February 3, 2014, Commission staff received an application from the Lessee requesting an amendment to the Lease for the construction, use, and maintenance of an aluminum stairway and gangway with railing and a floating boat dock.

On April 23, 2015, Commission staff brought the request for a lease amendment to the Commission with a recommendation for denial. The Commission considered testimony from the Lessee and directed staff to continue to negotiate with the Lessees to explore alternatives to the boat dock proposal that still protects the Public Trust needs of the RBV community.

STAFF ANALYSIS AND RECOMMENDATION:

While the upland property adjacent to the lease premises lies within the projection lines of one of the two recognized Beach Areas in the RBV community, the Lessee has agreed to move the proposed boat dock 5 feet upstream and reduce the overall length of the boat dock by 4 feet, thereby moving the boat dock further away from the sandy beach than originally proposed and placing it over the riprap at the end of the wingdam adjacent to the Lessee's upland property. Staff believes the compromise in the placement and overall length of the boat dock will protect the public's use and enjoyment of the Beach Area. The lease also requires a railing on the southeasterly side of the dock and explicitly prevents mooring of all watercraft on the southeast side of the dock (the side closest to the sandy beach). Additionally, staff amended Exhibit A, Land Description, and Exhibit B, Site and Location Map to better reflect that the upland portions of the lease area include only the rip rap bankline and do not include the sandy beach area. Staff recommends that the Commission authorize an amendment to the Lease to authorize the construction, use, and maintenance of an aluminum stairway and gangway with railing, and a floating boat dock with a railing on the southeasterly side of the boat dock; and to prohibit the mooring of all watercraft on the southeasterly side of the boat dock.

OTHER PERTINENT INFORMATION:

1. The Applicants own the upland adjoining the lease premises.
2. While processing the application to amend the lease, staff became aware of two existing planter areas with rock retaining walls not previously authorized by the Commission. Staff recommends amendment of the lease to add the two existing planter areas with rock retaining walls.

CALENDAR ITEM NO. C88 (CONT'D)

3. The staff recommends that the Commission find that amending the lease to add the two existing planter areas with rock retaining walls not previously authorized by the Commission 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.

4. The staff recommends that the Commission find that amending the lease to include construction of an aluminum stairway and gangway with railing and a floating boat dock is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

5. 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.

APPROVALS OBTAINED:

U.S. Bureau of Reclamation

FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers
California Department of Fish and Wildlife

EXHIBITS:

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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Planter areas with rock retaining walls: 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).

Construction of an aluminum stairway and gangway with railing, and a floating boat dock: 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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

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 amendment of Lease No. PRC 8996.1, a General Lease – Recreational and Protective Structure Use, effective December 18, 2015; for the construction of an aluminum stairway and gangway with railing and a floating boat dock with railing on the southeasterly side of the dock; to prohibit the mooring of all watercraft on the southeasterly side of the boat dock; to include special provisions related to the construction of boat docks; to include two existing planter areas with rock retaining walls as authorized improvements; to revise the rent from the public use and benefit to \$259 per year, beginning May 24, 2016; and to replace the existing Exhibit A and Exhibit B with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 8996.1

LAND DESCRIPTION

Three parcels of State owned land adjacent to Lots 30 and 31 of Tract No. 15640 as shown on Tract Map recorded in Book 261, Pages 88 through 94, inclusive of Maps, in the Office of the County Recorder of San Bernardino County, State of California, described as follows:

PARCEL A

BEGINNING at the northerly corner of said Lot 31; thence along the following eight courses:

- 1) N 47°51'55" E 28.85 feet;
- 2) S 8°44'59" E 9.45 feet;
- 3) S 36°31'24" E 7.22 feet;
- 4) S 87°59'48" E 7.53 feet;
- 5) S 39°07'15" E 10.17 feet;
- 6) S 19°13'09" E 5.03 feet;
- 7) S 49°06'18" E 9.96 feet;
- 8) S 47°51'55" W 27.06 feet to the easterly corner of said Lot 31;

thence along the northeasterly line of said Lot 31 N 42°08'05" W 45.00 feet to the **POINT OF BEGINNING**.

PARCEL B

COMMENCING at the northerly corner of said Lot 31; thence N 47°51'55" E 39.34 feet to the **POINT OF BEGINNING**; thence along the following fourteen courses:

- 1) N 47°51'55" E 68.40 feet;
- 2) S 29°16'28" E 5.22 feet;
- 3) S 17°28'47" E 9.24 feet;
- 4) S 8°56'06" E 9.70 feet;
- 5) S 4°24'32" E 6.19 feet;
- 6) S 1°03'46" W 10.39 feet;
- 7) S 11°13'20" W 5.50 feet;
- 8) S 56°35'06" W 4.99 feet;
- 9) S 84°54'22" W 6.78 feet;
- 10) S 89°34'23" W 15.32 feet;
- 11) N 81°37'04" W 10.95 feet;
- 12) N 73°35'24" W 6.14 feet;
- 13) S 85°04'03" W 6.30 feet;

14) S 87°44'37" W 7.54 feet to the POINT OF BEGINNING.

PARCEL C

COMMENCING at the northerly corner of said Lot 31; thence N 47°51'55" E 66.41 feet; thence N 42°08'05" W 0.67 feet to the POINT OF BEGINNING; thence along the following twelve courses:

- 1) N 0°25'48" W 5.36 feet;
- 2) N 47°51'55" E 15.98 feet;
- 3) N 69°51'28" E 21.83 feet;
- 4) N 13°19'33" E 2.02 feet;
- 5) N 44°58'17" W 7.37 feet;
- 6) N 45°01'43" E 13.50 feet;
- 7) S 44°58'17" E 20.00 feet;
- 8) S 45°01'43" W 21.00 feet;
- 9) N 44°58'17" W 8.00 feet;
- 10) N 13°19'33" E 2.00 feet;
- 11) S 69°51'28" W 18.41 feet;
- 12) S 47°51'55" W 18.77 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark as described in Exhibit A of Boundary Line Agreement recorded August 11, 1992 as document Number 92-333250 in Official Records of said County.

END OF DESCRIPTION

Prepared 12/3/2015 by the California State Lands Commission Boundary Unit.



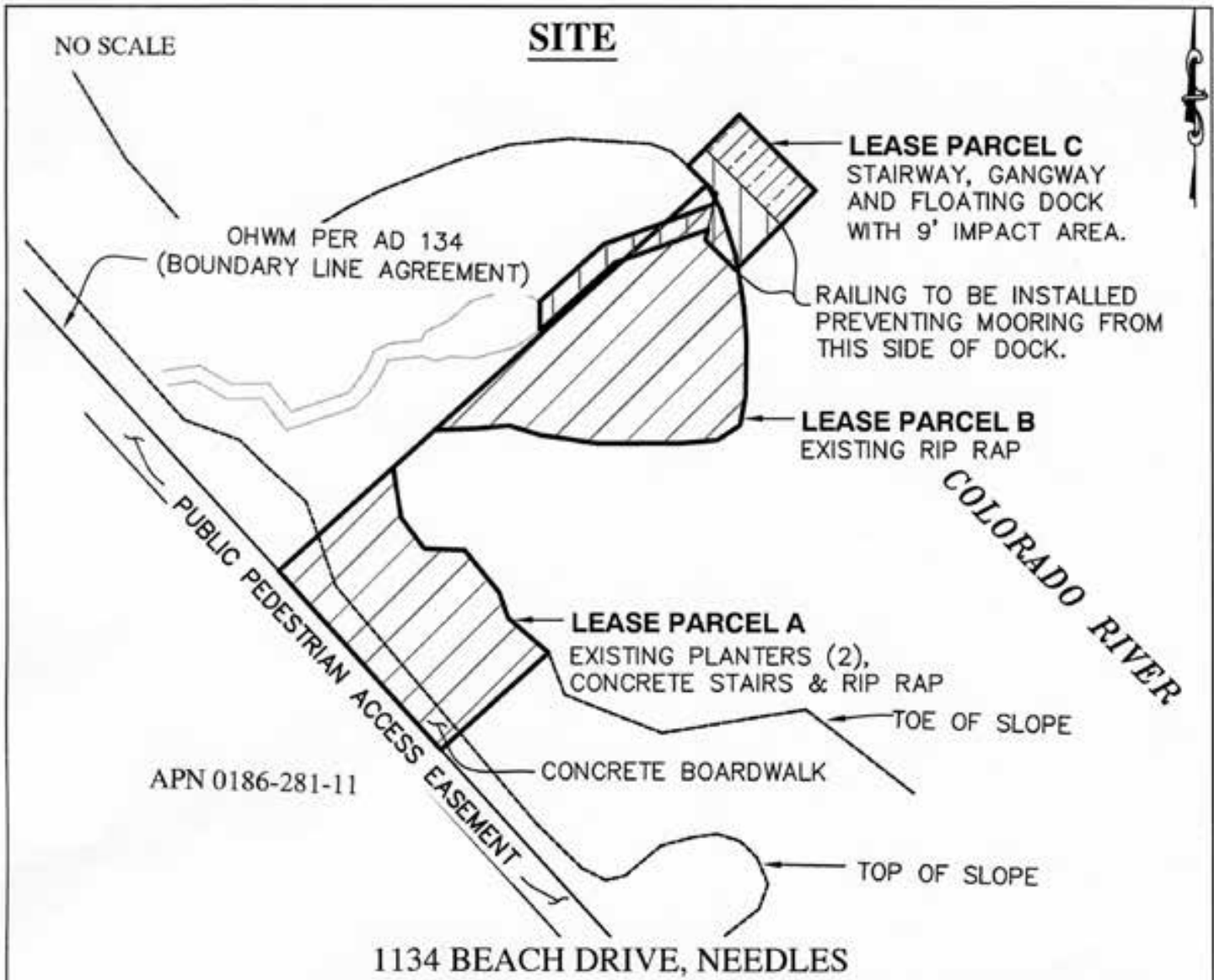


Exhibit B

PRC 8996.1
TESORIERO
APN 0186-281-11
GENERAL LEASE -
RECREATIONAL & PROTECTIVE
STRUCTURE USE
SAN BERNARDINO 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.