

STAFF REPORT

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12/06/19
Lease 7667.9
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J. Holt

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GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of Larkspur

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Corte Madera Creek, adjacent to 50 Drakes Landing Road, Greenbrae, Marin County.

AUTHORIZED USE:

Removal, replacement, use, and maintenance of an existing boat dock, gangway, transition plate, anchor cables, and appurtenant facilities.

LEASE TERM:

20 years, beginning December 6, 2019.

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 interests.

SPECIFIC LEASE PROVISIONS:

- Lessee agrees to obtain necessary permits from all applicable regulatory agencies, prior to the removal and replacement of improvements on State land.
- Lessee agrees and acknowledges that the hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

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Public Trust and State's Best Interests Analysis:

On December 17, 1992, the Commission authorized a 25-year General Lease – Public Agency Use to the City of Larkspur (City) ([Item C35, December 17, 1992](#)). That lease expired on November 30, 2017. During the time period of December 2017 to June 2019, the City worked on rehabilitation plans for existing improvements on sovereign land. The design plans focused on structural enhancements and compliance with the Americans with Disabilities Act (ADA). The City is obtaining permits from all applicable regulatory agencies. The City is now applying for a General Lease – Public Agency Use, for the removal, replacement, use, and maintenance of an existing boat dock, gangway, transition plate, anchor cables, and appurtenant facilities in Corte Madera Creek.

According to the City of Larkspur, the proposed project offers a significant public benefit and year-round access to a recreational amenity. “This dock provides public access for water-related uses. In addition, the ADA improvements will support the needs of a portion of the public, while still serving all people. There is no other public access to the creek in the project vicinity.” (City of Larkspur, 2019). The public may access Corte Madera Creek across the City-owned site, or via Bike Route 20 which runs along the north bank of Corte Madera Creek.

The proposed project, which is designed for outdoor recreation and navigation purposes, will increase access to Public Trust resources. The project will benefit a diverse group of recreators and kayakers, using scenic waterways for leisure activities. Recreational facilities that encourage and promote public access, use, and enjoyment of State's waterways are generally consistent with the common law Public Trust Doctrine.

The existing dock and gangway will be lifted from the water by crane and disposed of in an appropriate manner. The proposed dock and gangway will be fabricated off-site and transported to the lease area. The dock will be lifted by crane and placed in Corte Madera Creek during a mid to high tide period, to minimize any environmental impact on native species. The gangway will be lifted into place using the same equipment. The equipment will be operated from the upland parcel, not within the lease area. No equipment will be located on the marsh/wetland area. A small boat may be used to guide the operation and secure placement of the dock, if necessary. Construction will begin after all required approvals are obtained, with an anticipated starting date in summer 2020. The City will follow all construction methods and timelines required by regulatory agencies. After replacement, the City will remove all equipment, tools,

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debris and unused materials from State land in a timely manner. The proposed project aligns with rehabilitation measures for the upland (not within the lease area), which include enhancements to ADA parking areas and walkways leading to the recreational facilities.

The proposed lease will contain similar facilities to the prior lease. These facilities are used for the docking and mooring of boats, with an expansion in public access to diverse individuals and groups. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also considers the public use and benefit to people of the State, impacted by the occupation of Public Trust land.

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 Corte Madera Creek, in a tidally influenced site vulnerable to flooding at current sea levels that will be at a higher risk of flood exposure given projected scenarios of sea-level rise.

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.

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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.

These impacts could increase the Corte Madera Creek's inundation levels within the lease area. In addition, as stated in *Safeguarding California 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 expose previously submerged structures to the elements and lead to increased wear-and-tear on the dock.

Regular maintenance and implementing regular maintenance practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses regarding the improvements on the lease premises will be assessed at the time the lease expires and would be based on projected sea-level rise scenarios at that time.

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Conclusion:

For all the reasons above, staff believes the issuance of this lease does not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the City may be required to remove the boat dock, gangway, transition plate, anchor cables, and appurtenant facilities and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. A Mitigated Negative Declaration (MND), State Clearinghouse No. 2012052052, was prepared by the City of Larkspur Public Works Department (City) and adopted on August 1, 2012, together with a Mitigation Monitoring Program for this Project. In addition, an Addendum to the MND was prepared and adopted on October 8, 2014. A previous lease authorization was approved by the Commission on April 23, 2015 ([Item C47, April 23, 2015](#)), relying on the City's adopted Mitigated Negative Declaration. Commission staff reviewed the City's MND and Addendum and the Commission's previously adopted Mitigation Monitoring Program ([Item C47, April 23, 2015](#)), which remains in full force.
4. 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 California Environmental Quality Act (CEQA) review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

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EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2012052052, and a Mitigation Monitoring Program were prepared by the City of Larkspur Public Works Department and adopted on August 1, 2012, for this Project; that in addition, an Addendum to the MND was prepared and adopted on October 8, 2014; that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

The Commission adopted a Mitigation Monitoring Program at the April 23, 2015 ([April 23, 2015, Item C47](#)) meeting, which remains in full force.

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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the City beginning December 6, 2019, for a term of 20 years, for the removal, replacement, use, and maintenance of an existing boat dock, gangway, transition plate, anchor cables, and appurtenant facilities, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: the public use and benefit, with the State reserving the right at any time to set a

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monetary rent if the Commission finds such action to be in the State's best interests.

EXHIBIT A

LEASE 7667.9

LAND DESCRIPTION

A parcel of sovereign land in the bed of the Corte Madera Creek, County of Marin, State of California, lying adjacent to Parcel 2 of that certain map filed in Book 2 of Parcel Maps at page 12, Records of said County, and being more particularly described as follows:

All those lands underlying a proposed boat dock, proposed gangway, proposed transition plate, and proposed anchor cables lying adjacent to said Parcel 2.

EXCEPTING THEREFROM any portion lying landward of the Corte Madera Canal as shown on that certain map dated 1870 and titled "Map No. 2 of Salt Marsh and Tide Lands situate in the County of Marin, State of California", on file at the Sacramento Office of the California State Lands Commission.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 11/4/2019 by the California State Lands Commission Boundary Unit.



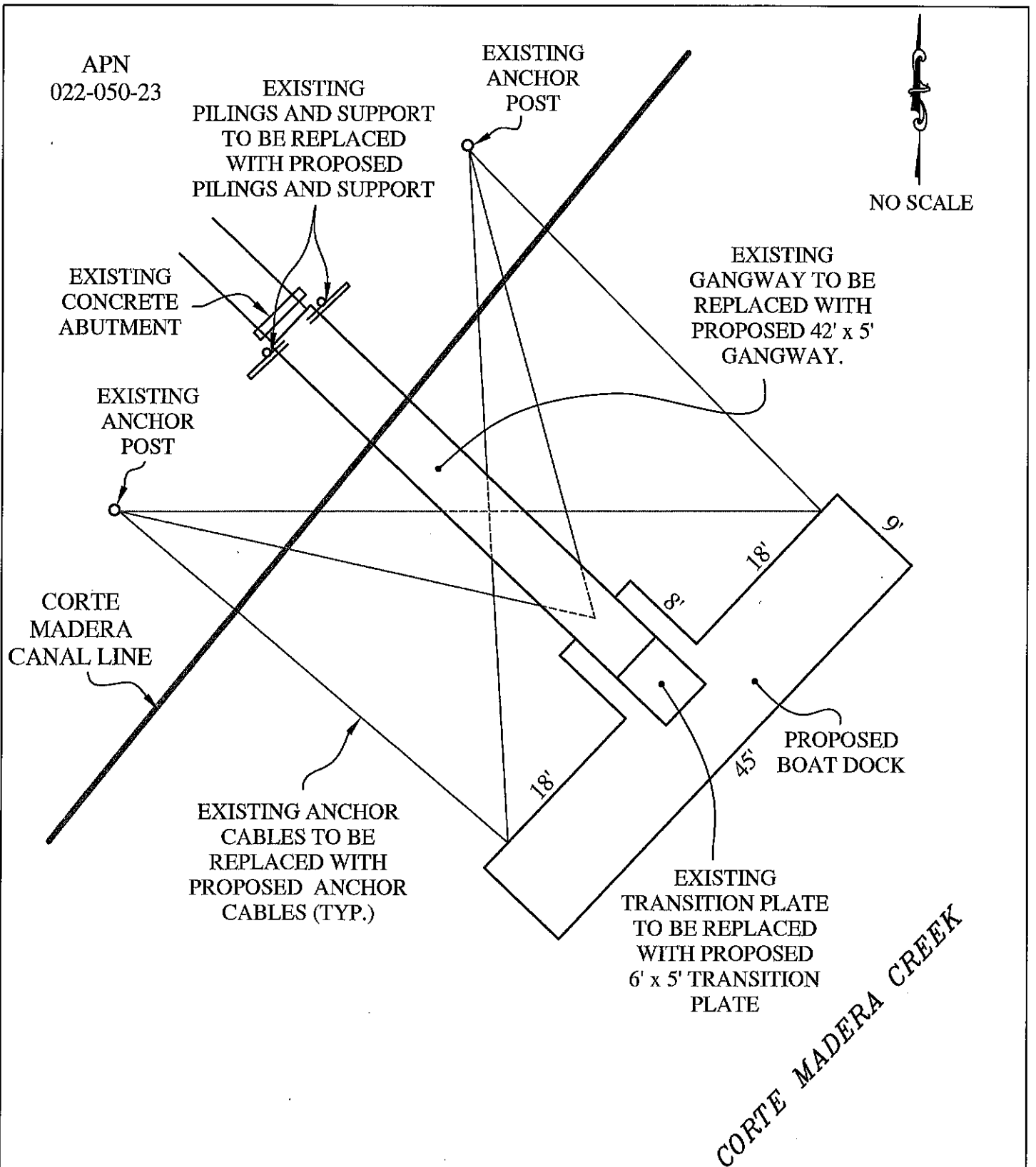


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 7667.9 CITY OF LARKSPUR
MARIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN
022-050-23

EXISTING
PILINGS AND SUPPORT
TO BE REPLACED
WITH PROPOSED
PILINGS AND SUPPORT

EXISTING
ANCHOR
POST

EXISTING
CONCRETE
ABUTMENT

EXISTING
GANGWAY TO BE
REPLACED WITH
PROPOSED 42' x 5'
GANGWAY.

EXISTING
ANCHOR
POST

CORTE
MADERA
CANAL LINE

EXISTING ANCHOR
CABLES TO BE
REPLACED WITH
PROPOSED ANCHOR
CABLES (TYP.)

EXISTING TRANSITION
PLATE TO BE REPLACED
WITH PROPOSED
6' x 5' TRANSITION PLATE

PROPOSED
BOAT DOCK

CORTE MADERA CREEK

50 DRAKES LANDING RD., GREENBRAE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

LEASE 7667.9
CITY OF LARKSPUR
APN 022-050-23
GENERAL LEASE -
PUBLIC AGENCY USE
MARIN COUNTY



JWP 11/4/19