

STAFF REPORT

16

A 14

12/06/19

S 3

A2081
V. Caldwell

GENERAL LEASE – OTHER

APPLICANT:

The Nantucket Revitalization LLC

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Carquinez Strait, adjacent to 501 Port Street, Crockett, Contra Costa County.

AUTHORIZED USE:

Maintenance of areas in and around the former restaurant, boat repair facility, and parking lots, including maintaining K-rail barricades and two security gates; installation of any other security or safety improvements reasonably necessary to secure the property and minimize risk to the general public; removal of trash and debris; reducing potential fire hazards including regularly removing weeds and brush; and to conduct investigations and surveys as needed.

LEASE TERM:

1 year, beginning upon receipt of satisfactory evidence of Union Pacific Railroad right-of-way access; however, if the access is not obtained on or by, June 1, 2020, no lease will be issued.

CONSIDERATION:

\$140 per year.

SPECIFIC LEASE PROVISIONS:

- The Lease is conditioned upon Lessee obtaining and maintaining Right-of-Way access rights from Union Pacific Railroad.
- Lessee may request to terminate this Lease, subject to Lessor approval, if Lessee determines that Lessee's proposed long-term project to rehabilitate the restaurant is no longer financially or economically feasible. Requesting such termination shall be accompanied by reasonable supporting documentation.

STAFF REPORT NO. 16 (CONT'D)

- The Lessee shall submit the results of all site investigations and surveys conducted, to the Lessor, on or before expiration or early termination of this lease.
- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges that hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the property.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6106, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

For many years, Crockett Marine Service, Inc. (CMS), was the lessee and the operator of the Nantucket Restaurant, boat repair business, and marina along the Carquinez Strait, in Crockett. CMS struggled to keep the businesses viable and in 2011, the Commission found CMS to be in trespass and authorized staff and the Office of the Attorney General to take all action necessary to collect rent and restore the lease premises. In an ongoing effort to keep the restaurant and marina as an asset to the community and the State, the Commission entered into mediation and subsequently agreed to a Release and Settlement Agreement (2013) that was followed by a new lease with CMS in 2014 ([Item 56, June 19, 2014](#)). The years that followed saw minor improvements followed by significant breaches of the Release and Settlement Agreement and lease. Ultimately, CMS was unable to fulfill its obligations to maintain the improvements which led to the Commission terminating the lease in 2018 ([Item 30, December 3, 2018](#)). The restaurant closed on February 17, 2019.

In March 2019, the Commission boarded up the existing restaurant. Since that time, the restaurant has been broken into several times and the building and fixtures have been stripped and vandalized.

The Applicant has applied for a General Lease – Other for the maintenance of areas in and around the former restaurant, boat repair facility, and parking lot, including maintaining K-rail barricades and two security gates; installation of any other security or safety improvements reasonably necessary to secure the property and minimize risk to the general public; removal of trash and debris; and reducing potential fire

STAFF REPORT NO. 16 (CONT'D)

hazards including regularly removing weeds and brush; and to conduct investigations and surveys as needed.

The Applicant has a long-term vision for the site and is requesting a short-term lease to maintain and secure the existing facilities to ensure they will remain in an acceptable condition. The long-term vision is to rehabilitate the existing restaurant and make it a regional destination. The Applicant currently has an incomplete application on file with the Commission and hopes to complete the application and have it considered by the Commission at a later date.

The proposed short-term lease is focused on maintenance of the lease area along with improving overall safety for the area and public access. The Applicant would continue to provide public access to the lease area through the current gate during daylight hours.

During the short-term lease, vegetation management would be required to reduce fire risks, as well as removal of trash and debris from areas in and around the former restaurant, boat repair facility, and parking lots.

The proposed action is considered beneficial because it will improve overall conditions including safety at the Subject Property. The Applicant will actively manage the site, must carry liability insurance to protect the State from any incidents or damage that could occur due to the activities authorized by the lease. The lease does not alienate the State's fee simple interest, or permanently impair public rights. The lease is limited to a 1-year term and does not grant the lessee exclusive rights to the lease premises. Furthermore, the action will not impede or impair any other Public Trust uses in the area.

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 proposed lease is located on the Carquinez Strait within the San Francisco Bay, which is a tidally influenced site vulnerable to flooding at current sea levels and at 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

STAFF REPORT NO. 16 (CONT'D)

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 lease area 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.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. 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). This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, composed of greater total water levels for longer periods of time.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. In addition, as stated in 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 tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal areas will be exposed to increased wave force and run-up, potentially resulting in greater bank erosion than previously experienced. Finally, in tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. All the facilities are fixed and, due to the low elevation

STAFF REPORT NO. 16 (CONT'D)

and current structural condition, will likely need continued maintenance in the near future to ensure the leased structures continue to withstand higher levels of flood exposure and storm activity. In addition, the adjacent upland may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation to the existing structures. Because this current authorization is for a short-term lease (1 year), the lease premises would not be susceptible to the above future sea-level rise projections. However, as the applicant considers a possible future restaurant renovation, the renovation would need to consider future sea-level rise scenarios. Further climate change analyses for a possible future long-term lease for the lease premises will be evaluated at the time the longer-term lease is being considered.

Conclusion:

For all the reasons above, staff believes the issuance of this 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 proposed lease; and is 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. Upon expiration or prior termination of the lease, the lessee 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 with Strategy 1.3 of the Commission's Strategic Plan to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. Consistent with the Commission's adopted Environmental Justice Policy, staff evaluated the location of the proposed lease to determine whether nearby communities bare a disproportionate share of environmental burdens. Using the [CalEnviroScreen](#) program, managed by the California Office of Environmental Health Hazard Assessment, staff identified the

STAFF REPORT NO. 16 (CONT'D)

census tract covering the proposed lease area along with adjacent tracts bearing environmental burdens greater than most other census tracts in the State. In addition, the proposed lease area is identified as being located within a Disadvantaged Community under SB 535. Staff found that the proposed short-term lease would not add or exacerbate existing burdens. Staff determined that the Applicant's short-term application before the Commission does not warrant outreach; however, the proposed long-term use of the site will require outreach to the environmental justice community for input. Staff will initiate environmental justice outreach for the proposed long-term use once the Applicant provides satisfactory evidence of right-of-way access from Union Pacific Railroad.

4. 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 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

EXHIBITS:

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

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 14, section 15301.

PUBLIC TRUST AND STATE'S BEST INTEREST:

Find that the proposed lease 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; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Other, to the Applicant for a term of 1 year, beginning only upon receipt of evidence satisfactory to the Executive Officer or her designee, that the Applicant has obtained a right-

STAFF REPORT NO. 16 (CONT'D)

of-way from the Union Pacific Railroad on or by June 1, 2020; for the maintenance of areas in and around the former restaurant, boat repair facility, and parking lots, including maintaining K-rail barricades and two security gates; installation of any other security or safety improvements reasonably necessary to secure the property and minimize risk to the general public; removal of trash and debris; reducing potential fire hazards including regularly removing weeds and brush; and to conduct investigations and surveys as needed, 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 \$140; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

A 2081

LAND DESCRIPTION

Two parcels of tide and submerged land, whether filled or unfilled, lying in the bed of the Carquinez Strait, near Crockett, Contra Costa County, California, more particularly described as follows:

PARCEL 1

Bounded on the north by a line lying parallel with and 490 feet northerly from the north rail of the northern most track of the Southern Pacific Transportation Company main line from Station 2867+384 to Station 2814+592;

Bounded on the east by a line lying parallel with and 221 feet westerly from the westerly line of the Caltrans Right of Way as shown on that Right of Way Map "Appraisal Map A-1246.1" Dated February 2004 and on file with the California State Lands Commission;

Bounded on the south by a line lying parallel with and 11 feet northerly from said north rail;

Bounded on the west by a line lying parallel with and 650 feet westerly from said westerly line.

PARCEL 2

Bounded on the north by a line lying parallel with and 28 feet southerly from the south rail of the southern most track of the Southern Pacific Transportation Company main line from Station 2867+384 to Station 2814+592;

Bounded on the east by a line lying parallel with and 227 feet westerly from the westerly line of the Caltrans Right of Way as shown on that Right of Way Map "Appraisal Map A-1246.1" Dated February 2004 and on file with the California State Lands Commission;

Bounded on the south by a line lying parallel with and 75 feet southerly from said south rail;

Bounded on the west by a line lying parallel with and 625 feet westerly from said westerly line.

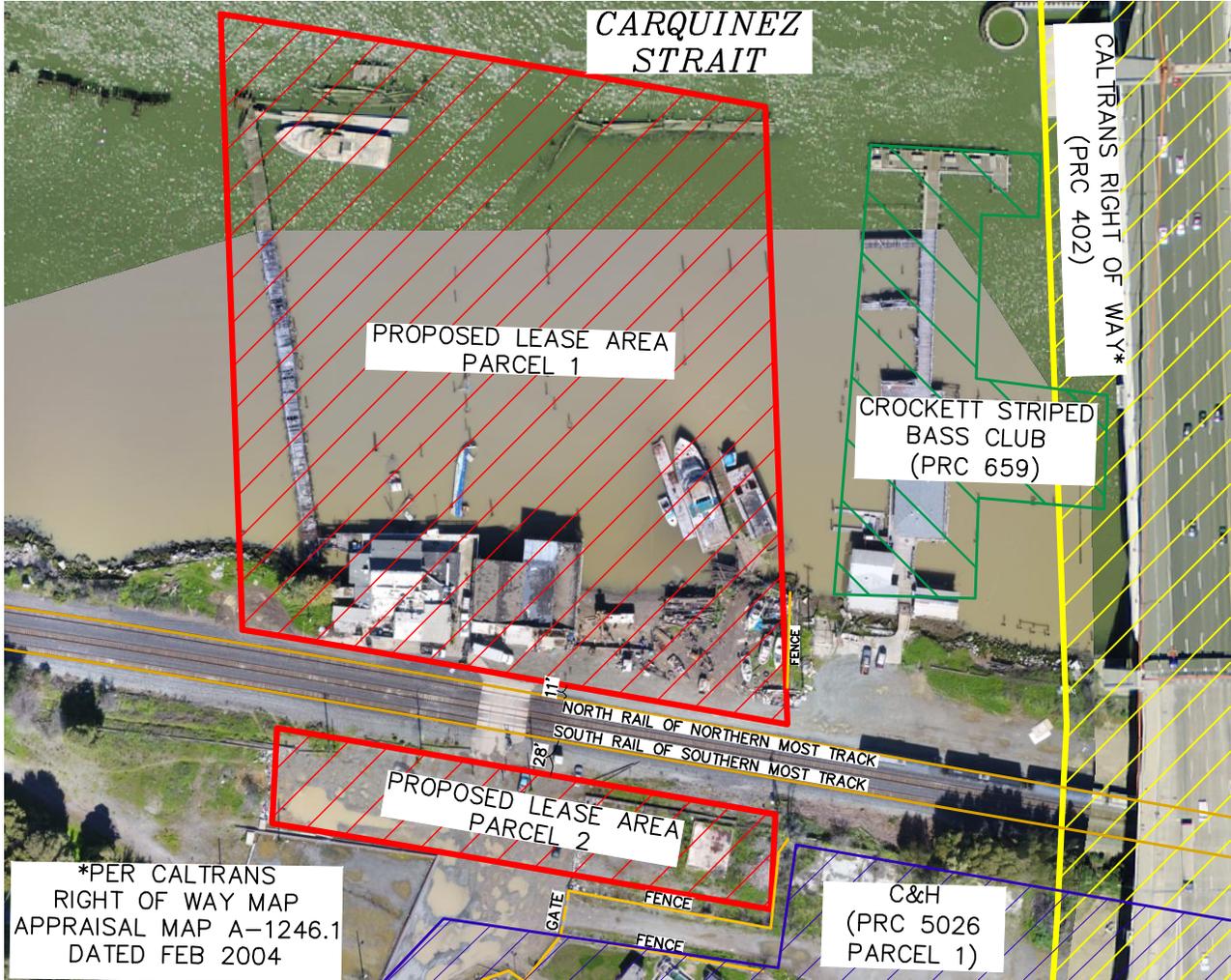
END OF DESCRIPTION

PREPARED THE CALIFORNIA
STATE LANDS COMMISSION
BOUNDARY UNIT 11/26/2019



NO SCALE

SITE

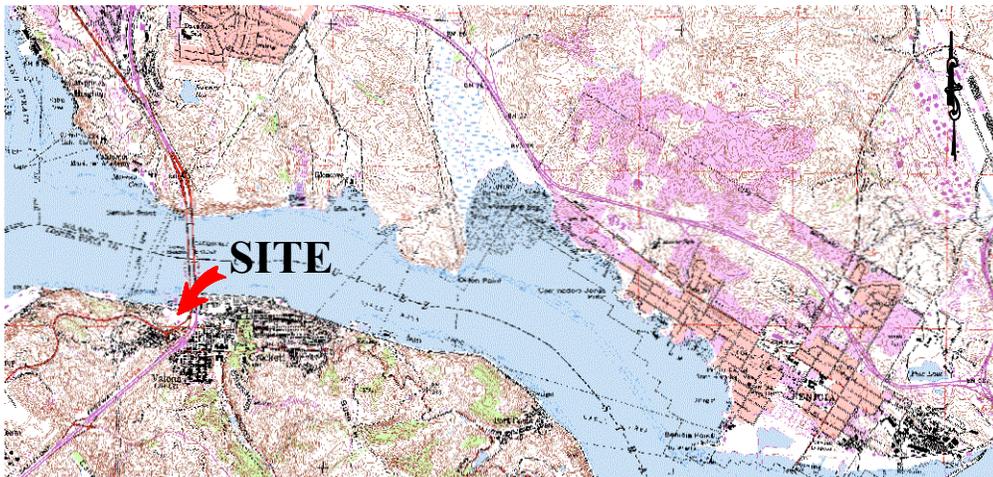


*PER CALTRANS
RIGHT OF WAY MAP
APPRAISAL MAP A-1246.1
DATED FEB 2004

Crockett, Carquinez Strait

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B
A 2081
THE NANTUCKET
REVITALIZATION LLC
GENERAL LEASE - OTHER
CONTRA COSTA COUNTY



MJF 11/26/19

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.