

## STAFF REPORT

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02/28/20  
PRC 6201.9  
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M. Schroeder

## AMENDMENT OF LEASE

### LESSEE:

Las Gallinas Valley Sanitary District

### AREA, LAND TYPE, AND LOCATION:

Tide and submerged sovereign land in and adjacent to San Pablo Bay, near San Rafael, Marin County.

### AUTHORIZED USE:

Construction and maintenance of a wastewater disposal project combined with agriculture, wildlife enhancement, and open space preservation uses.

### LEASE TERM:

49 years, beginning August 26, 1982.

### 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.

### PROPOSED AMENDMENT:

- Authorize the use and maintenance of two existing 24-inch-diameter stormwater outfall pipelines, replacement of an existing headwall structure, and restoration of a levee embankment behind the headwall structure.
- Delete Exhibit B, Site and Location Map.
- Include the attached Exhibit B, Site and Location Map.

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

## STAFF REPORT NO. 28 (CONT'D)

### **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.

#### **Public Trust and State's Best Interests Analysis:**

On August 26, 1982, the Commission authorized the issuance of Lease No. PRC 6201.9, a 49-year General Lease – Public Agency Use (Lease) to the Las Gallinas Valley Sanitary District (District) for the construction and maintenance of a wastewater disposal project combined with agriculture, wildlife enhancement, and open space preservation uses ([Item C12, August 26, 1982](#)).

On October 13, 2016, the Commission authorized an amendment of the lease for the installation and maintenance of a cattle exclusion fence and the management of wildlife habitat, open space preservation, public access, and drainage improvements; and provisions addressing the Lessee's use of the Lease Premises and when notice or an application is required from the Lessee ([Item C23, October 13, 2016](#)). The lease will expire on August 25, 2031. The District is now requesting to amend the Lease to authorize the use and maintenance of two existing 24-inch-diameter stormwater outfall pipelines, replacement of an existing headwall structure, and restoration of a levee embankment behind the headwall structure.

The District operates and maintains two 24-inch-diameter stormwater outfall pipelines supported by a wooden headwall structure not previously authorized by the Commission. The levee embankment behind the headwall structure has deteriorated and needs to be restored. The levee embankment serves as a public trail and is part of the San Francisco Bay Trail (Bay Trail). Safety of the public is a concern with the erosion of the levee embankment behind the headwall structure. The levee embankment also serves as the perimeter road of the District's sludge storage pasture and provides the only vehicle access for daily maintenance by District staff. The existing headwall has exceeded its useful life. The District is also concerned the erosion of the levee embankment behind the wooden headwall could progress into a void due to the scouring effect of higher runoff from the Miller Creek tributaries and ditches. The District proposes replacement of the wooden headwall and restoration of the eroded levee embankment behind the headwall structure to prevent further erosion and improve the safety of the public trail. The restoration of the levee embankment behind the headwall structure is on sovereign land.

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Commission staff believes that the proposed lease amendment for the authorization of the two existing 24-inch-diameter stormwater outfall pipelines, replacement of the headwall structure, and restoration of the eroded levee embankment behind the headwall structure at Miller Creek are consistent with the Public Trust Doctrine because the improvements facilitate public access along the Bay Trail, and they will not substantially interfere with the Public Trust needs and values at this location because the existing facilities are located partially under a levee embankment and extend minimally past the embankment. Therefore, the facilities will have minimal, if any, impact on the recreational use of Miller Creek or the area in San Pablo Bay surrounding the Miller Creek mouth.

### **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 along the Sanitation District's St. Vincent Storm Pump Station Headwall and force main which includes tide gates. The headwall has deteriorated, and District staff has also noticed gradual erosion of the perimeter levee embankment that also serves as a public access trail. These structures are vulnerable to flooding at current sea levels and at higher risk of flood exposure given projected scenarios of sea-level rise.

The lease area consists of the headwall and perimeter levee embankment. The existing perimeter levees are part of the Bay Trail and these deteriorating levees could impact public safety. The force main discharges into Miller Creek during severe storm events and ultimately discharges into San Pablo Bay; and is thus impacted by sea-level rise. Marin County has developed a Sea-Level Rise Vulnerability Assessment that evaluated future potential impacts to the St. Vincent area, which includes Miller Creek, and determined which areas have the potential for severe impacts as a result 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 lease area as listed in Table 1.

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**Table 1. Projected Sea-Level Rise for San Francisco<sup>1</sup>**

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: <sup>1</sup> 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). In rivers and 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. In rivers and 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 the headwall and perimeter levees within the lease premises during the term of the lease. The structures will require more frequent maintenance as a result of increased tidal backflow from the Bay resulting from increased duration and strength of future storms. Additional maintenance of the Miller Creek area, perimeter levees/Bay Trail, and force main may be required as storm intensity and duration increase.

Regular maintenance, as required by the lease, will reduce the likelihood of severe impacts to the headwall and perimeter levees.

### **Conclusion:**

For all the reasons above, staff believes this approval will not substantially interfere with the public rights to navigation, fishing, and commerce; or substantially interfere with Public Trust needs and values at this location; is consistent with the Public Trust Doctrine; and is in the State's best interests.

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### **OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application for amending the lease 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 a trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of a lease, the lessee has no right to a new lease or renewal of any previous lease.
2. A letter of non-objection was issued on September 9, 2019, to allow the Lessee to replace the headwall preventing further erosion and protecting public safety for those using the Bay Trail, with the requirement that the Lessee apply for an amendment to the lease.
3. 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.
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 INTERESTS:**

Find that the approval of the proposed amendment will not interfere with Public Trust needs and values at this location, at this time, or for the

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foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the State's best interests.

**AUTHORIZATION:**

Authorize the amendment of Lease No. PRC 6201.9, a General Lease – Public Agency Use, of tide and submerged sovereign land located in and adjacent to San Pablo Bay as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached, and by this reference made a part hereof, effective February 28, 2020, to Las Gallinas Valley Sanitary District; for the use and maintenance of two existing 24-inch-diameter stormwater outfall pipelines, replacement of an existing headwall structure, and restoration of the levee embankment behind the headwall structure; delete existing Exhibit B, Site and Location Map; and include the attached Exhibit B, Site and Location Map; all other terms and conditions of the lease will remain in effect without amendment.

## EXHIBIT A

PRC 6201.9

### LAND DESCRIPTION

Three (3) parcels of submerged lands, tidelands and sovereign lands situate near the City of San Rafael, adjacent to the protracted Sections 2, 3, 10, 11 and 15 of Township 2 North, Range 6 West, MDM as shown on the Official Government Township Plat, approved July 24<sup>th</sup>, 1871, County of Marin, State of California, and more particularly described as follows:

#### Parcel 1 (PARCEL ONE - AD 122)

That parcel of land as described in "EXHIBIT 1" of that grant deed to the State of California by the Catholic Youth Organization of the Archdiocese of San Francisco, recorded on March 18, 1998 in Document No. 98-016821, Official Records of said county.

#### Parcel 2

BEGINNING at the Northeast corner of that certain parcel of land described in the deed from Saint Vincent's Roman Catholic Orphan Asylum of San Francisco for Boys to the Las Gallinas Valley Sanitary District recorded December 20, 1965 in Book 2009 at Page 464, Marin County Records, said point being also on the line designated "Limit of Jurisdiction of the Tide Land Commissioners" as shown on that certain map entitled "Map No. 3, Salt Marsh and Tide Lands" surveyed by G. F. Allardt in 1870, running thence from said POINT OF BEGINNING along said Limit of Jurisdiction line the following courses and distances: North 62°22'08" East 243.27 feet, North 63°43'08" East 869.88 feet, North 65°27'08" East 732.60 feet, North 67°03'08" East 723.36 feet, North 68°36'08" East 714.78 feet, North 69°26'03" East 74.64 feet, North 70°12'39" East 632.83 feet, North 71°41'26" East 671.22 feet; thence leaving said Limit of Jurisdiction line and running North 15°27'17" West 162.12 feet, North 47°24'01" East 118.19 feet, North 31°19'43" East 134.63 feet, North 22°22'48" East 110.31 feet, North 3°04'49" West 223.32 feet, North 9°52'36" West 227.37 feet, North 44°05'26" West 44.55 feet, North 76°10'17" West 401.64 feet, North 15°31'27" West 112.09 feet, North 56°20'01" East 273.06 feet to a point hereinafter referred to as Point "A", running thence North 17°42'39" East 294.29 feet, North 26°54'40" East 2,428.24 feet, North 1°44'58" East 2,593.49 feet, more or less, to the boundary line between the lands of St. Vincent's School For Boys and the United States Government Hamilton Air Force Base, said point hereinafter referred to as Point "B", running thence westerly along said boundary line North 88°41'18" West 1,900.46 feet, thence leaving said boundary line and running South 2°04'31" East 3,067.31 feet, South 89°50'22" West 1,161.52 feet, South 0°09'38" East 1,924.24 feet, North 82°46'32" West 357.84 feet, South 2°28'18" West 920.86 feet, South 87°21'32" West 850.83 feet, South 34°01'26" West 703.78 feet, South 67°03'08" West 1,279.46 feet, more or less to the West boundary of Survey No. 130 of Swamp and Overflow Lands, Marin County, California, running thence southerly along said westerly boundary, South 1°10'38" West 907.26 feet, more or less, to the most northerly corner of said lands of the Las Gallinas Valley Sanitary District (2009 OR 464); running

thence along the northeasterly boundary of said lands of the Las Gallinas Valley Sanitary District South 51°14'08" East 430.15 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM all those validly patented tidelands and swamp and overflowed lands falling within the boundaries of the above described "Parcel 2"

**Parcel 3 (Portion of PARCEL TWO – AD 122)**

That parcel of land as described in "EXHIBIT 1" of that quitclaim deed to the State of California by the Catholic Youth Organization of the Archdiocese of San Francisco, recorded on March 18, 1998 in Document No. 98-016820, Official Records of said county.

EXCEPTING THEREFROM all those lands lying northerly of the following described line:

BEGINNING at a point which bears North 17°42'39" East 294.29 feet from the above described "Point A"; thence East to the easterly line of the above described parcel in "EXHIBIT 1".

BASIS OF BEARING of the above description "Parcel 2" is CCS27, Zone 3. All distances are ground distances.

The above description, "Parcel 2" is taken from that original description by Boundary and Title Unit, Leroy Weed, Supervisor on August 2, 1982 as found in Section 3 of Lease No. PRC 6201.9 authorized on August 26, 1982.

**END OF DESCRIPTION**

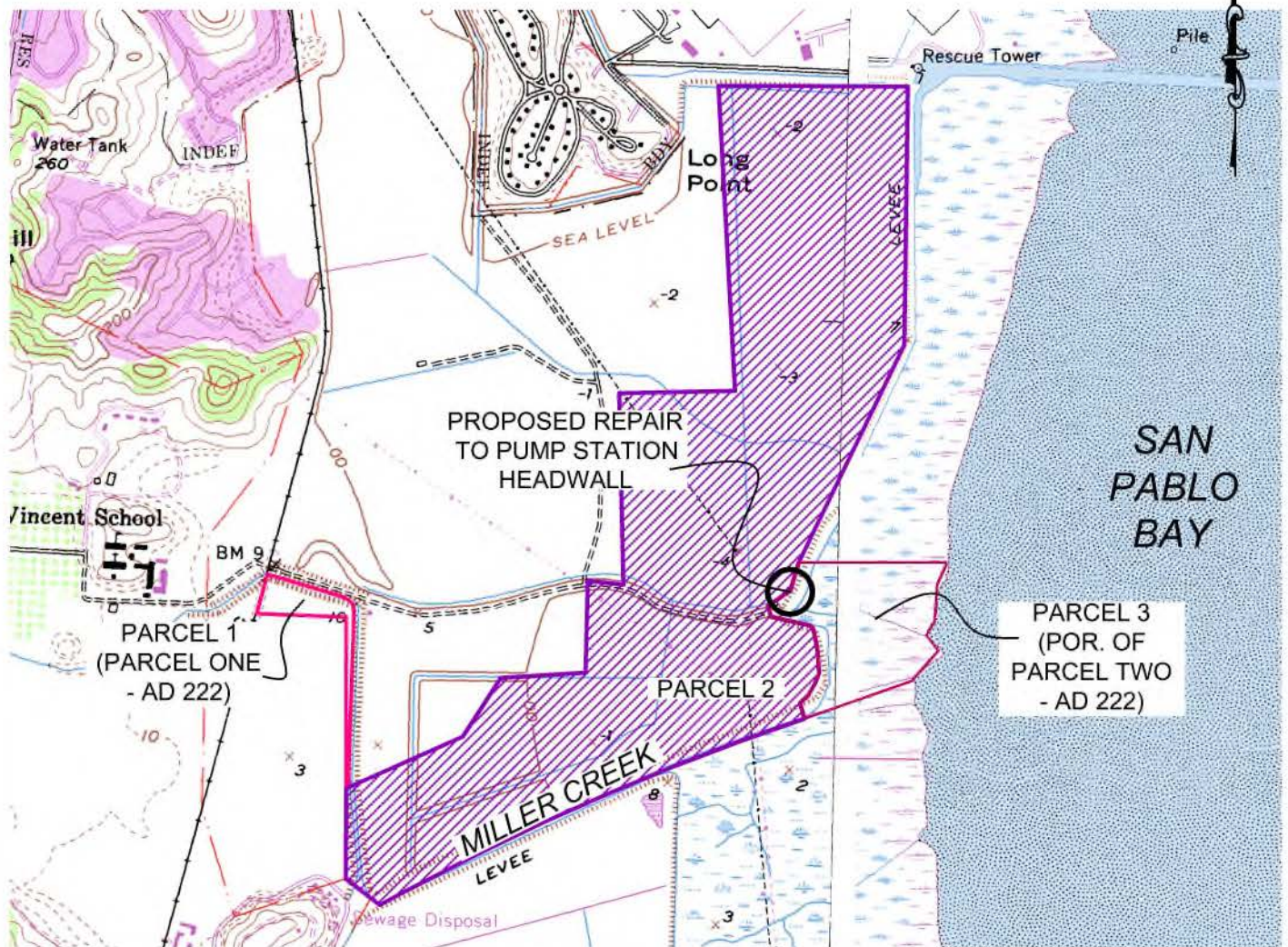
PREPARED 9/30/16 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





NO SCALE

## SITE



MILLER CREEK, NEAR SAN RAFAEL

NO SCALE

## LOCATION



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

PRC 6201.9  
LAS GALLINAS VALLEY  
SANITARY DISTRICT  
GENERAL LEASE -  
PUBLIC AGENCY USE  
MARIN COUNTY



MJF 1/23/20