

## STAFF REPORT

45

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04/29/20  
PRC 791.1  
A2299  
C. Hudson

### AMENDMENT OF LEASE

#### LESSEE:

Cabrillo Power I, LLC

#### AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Pacific Ocean, adjacent to Agua Hedionda Lagoon, Carlsbad, San Diego County.

#### AUTHORIZED USE:

Maintenance and removal of an out-of-service offshore marine terminal and appurtenant improvements.

#### LEASE TERM:

- Initial term: 5 years, beginning March 24, 2015.
- Amended to extend the lease term to March 23, 2025.

#### CONSIDERATION:

\$73,084 per year with an annual Consumer Price Index (CPI) adjustment.

#### PROPOSED AMENDMENT:

Section 1, Basic Provisions is amended as follows:

- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map.
- Land Use or Purpose is deleted and replaced with the following: Maintenance of a portion of a 20-inch-diameter non-operational pipeline.
- Revise the annual rental from \$73,084 to \$16,200, with an annual CPI adjustment, effective March 24, 2020.
- Authorized Improvements is deleted and replaced with the following: 20-inch-diameter non-operational pipeline.

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

## STAFF REPORT NO. 45 (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 December 18, 2015, the Commission authorized a 5-year General Lease – Industrial Use, to Cabrillo Power I, LLC, for the continued maintenance and removal of an out of service offshore marine terminal and appurtenant improvements ([Item 97, December 18, 2015](#)).

During decommissioning, the Lessee notified staff that a portion of the pipeline in the nearshore area was not recovered despite several attempts at removal, due to difficult site conditions. The decommissioning contractor is currently studying alternative removal methods and will provide a plan for review at a future date.

On February 28, 2020, the Commission authorized an amendment of the lease to extend the lease term to March 23, 2025, to allow the Lessee time to analyze other removal alternatives with fewer environmental impacts ([Item 38, February 28, 2020](#)). The lease will expire on March 23, 2025.

The Lessee is now requesting to amend the lease to reduce the size of the lease area to correspond with the remaining portion of the 20-inch-diameter non-operational oil pipeline; and revise the rent to reflect the reduced lease area and improvements. Full removal of the remaining portion of the offshore pipeline may be considered by the Commission at a later meeting once a plan for removal is completed. The proposed amendment retains the provisions requiring the Lessee to maintain liability insurance and indemnify the State as well as requiring annual rent payments to compensate the people of the State for the Lessee's use of public land.

Staff believes the lease amendment to reduce the size of the lease area and revise the annual rent does not alienate the State's fee simple interest or permanently impair public rights. The proposed amendment will not substantially interfere with the Public Trust needs at this location, as this time, and for foreseeable term of the lease, as amended. For these reasons, staff recommends finding the proposed action is in the best interests of the State.

STAFF REPORT NO. **45** (CONT'D)

**OTHER PERTINENT INFORMATION:**

1. Approval or denial of the amendment to 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 trustee of the State's Public Trust lands as authorized by law. 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, including but not limited to extending the lease term.
2. This proposed 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.
3. The amendment to modify the lease as specified above is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease amendment to reduce the size of the lease area and revise the annual rent will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize the amendment of Lease No. PRC 791.1, a General Lease – Industrial Use, effective March 24, 2020, to reduce the lease area; replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the revised Exhibit A, Land Description, and Exhibit B, Site and Location Map, (for reference purposes only) attached and by this reference made a part hereof; revise the annual rent to \$16,200, with an annual Consumer Price Index adjustment; and change the Land Use or Purpose and the

STAFF REPORT NO. **45** (CONT'D)

Authorized Improvements to include only the maintenance of a portion of a 20-inch-diameter non-operational pipeline; all other terms and conditions of the lease will remain in effect without amendment.

## EXHIBIT A

PRC 791.1

### LAND DESCRIPTION

A strip of tide and submerged land sixty (60) feet in width, extending into the Pacific Ocean, and located approximately one mile south of the City of Carlsbad, San Diego County, California, and lying thirty (30) feet on each side of the following described line:

COMMENCING at Corner Number 1 of Rancho Agua Hedionda, according to Map 823, filed in the Office of the County Recorder of San Diego County, California, November 16, 1896; thence South  $26^{\circ}07'53''$  East, 3,450.26 feet to the centerline of the existing 60.00-foot wide pipeline right-of-way and the POINT OF BEGINNING of the centerline herein described; thence South  $66^{\circ}57'20''$  West, 1,100.00 feet to terminus of said centerline.

Sidelines of said strip to be lengthened or shortened so as to terminate on the ordinary high water mark of the Pacific Ocean and with a line lying perpendicular to said terminus.

### END OF DESCRIPTION

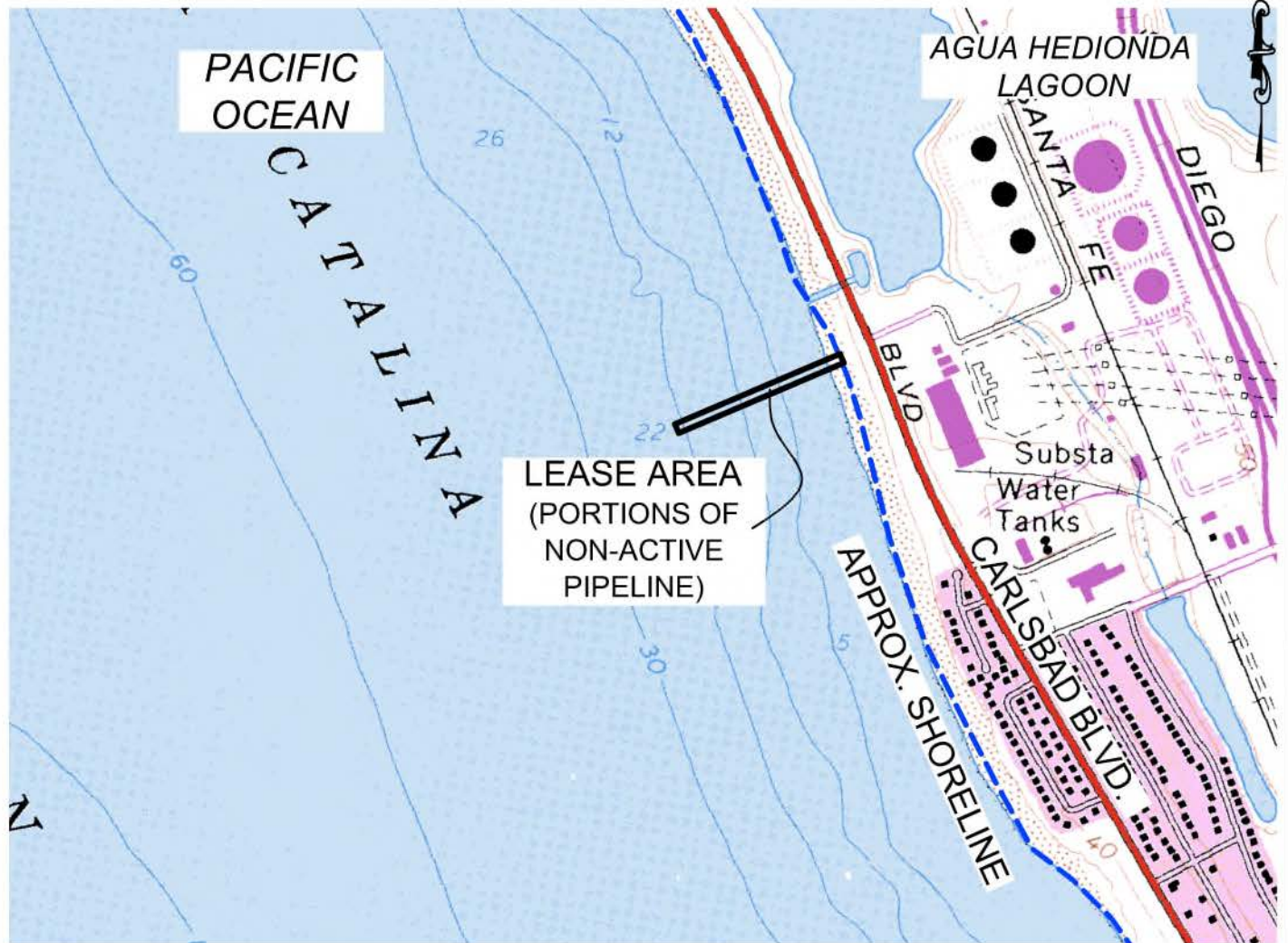
REVISED 3/16/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT

REVISED DESCRIPTION BASED ON PRC 791.1 (PARCEL "A") DESCRIPTION FOUND IN CALENDAR ITEM C45, AN APPROVED AT AUGUST 13, 1999 STATE LANDS COMMISSION MEETING.



NO SCALE

## SITE



4600 CARLSBAD BLVD., CARLSBAD NEAR AGUA HEDIONDA LAGOON - PACIFIC OCEAN

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 791.1  
CABRILLO POWER I, LLC  
GENERAL LEASE -  
INDUSTRIAL USE  
SAN DIEGO COUNTY



MJF 3/16/2020