

STAFF REPORT

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Lease 8685.9
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K. Connor

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**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND
ISSUANCE OF A GENERAL LEASE – OTHER**

LESSEE/APPLICANT:

Bolsa Chica Conservancy

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

6.12 acres, more or less, of sovereign land in the Bolsa Chica Lowlands, adjacent to 3842 Warner Avenue, Huntington Beach, Orange County.

AUTHORIZED USE:

Operation and maintenance of the existing Bolsa Chica Interpretive Center and other related activities associated with the Center's programs; removal of the existing Bolsa Chica Interpretive Center; and the construction, use, and maintenance of a new Bolsa Chica Interpretive Center.

LEASE TERM:

25 years, beginning June 26, 2020.

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:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall submit a set of "as-built" plans showing where the improvements have been placed within 60 days of construction completion. Once approved by Lessor's Executive Officer or designee and Lessee, Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to the Lease as

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necessary to accurately reflect the final location of the authorized improvements.

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 June 28, 2016, the Commission authorized a General Lease – Other to Bolsa Chica Conservancy (Conservancy), for the use and maintenance of the existing Bolsa Chica Interpretive Center (Center) and other related activities associated with the Center's programs for a 15-year term, beginning June 26, 2016 ([Item C65, June 28, 2016](#)). That lease will expire on June 25, 2031. The Conservancy is now applying for a new 25-year lease and will execute a lease quitclaim deed releasing its interest in the existing lease effective June 25, 2020.

The Conservancy is applying for the continued use and the removal and replacement of the existing Center. The existing Center is a 1,440-square-foot prefabricated modular building housing an interpretive nature center. The proposed new Center would be two new prefabricated modular buildings totaling 2,600 square feet. The existing Center will be demolished and removed from the site. The new prefabricated modular buildings will be towed in and assembled in a similar configuration as the previous Center.

The Conservancy is a nonprofit, nonpolitical organization of community members representing science, business, education, and government, established to ensure the preservation, restoration, and enhancement of the Bolsa Chica Ecological Reserve through public outreach, participation, education, and leadership. The Conservancy has been operating the Center since 1994, initially under an agreement with the California Department of Fish and Game (now the Department of Fish and Wildlife), and since June 2006 under a lease from the Commission. The Conservancy plans to continue use and maintenance of the Center and conduct associated activities that provide information, educational displays, classes, tours, research, site cleanup, and trail maintenance and restoration efforts.

The Conservancy has for some time been trying to fund a renovation or replacement of the existing Center. On May 20, 2020, the Wildlife Conservation Board (Board) approved approximately \$36.2 million in grants to help restore and protect fish and wildlife habitat in California. At

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that meeting, the Board approved a \$689,000 grant to the Conservancy for the proposed project.

Lands under the jurisdiction of the Commission in the Bolsa Chica Lowlands include roughly 1,200 acres of wildlife habitat. The Commission, acting in its capacity as the Kapiloff Land Bank Trustee, acquired approximately 950 acres for the Bolsa Chica Lowlands Restoration Project between 1997 and 2005. Restoration construction was largely complete by 2006, culminating in the reopening of an ocean tidal inlet allowing seawater to enter the area after a nearly 100-year absence. Lands under the jurisdiction of the Commission at Bolsa Chica are leased to the Department of Fish and Wildlife and are included in the Bolsa Chica Ecological Reserve.

Public Trust uses are generally limited to those that are water dependent or related, and include commerce, navigation, fisheries, environmental preservation, and recreation. Public Trust lands may also be kept in their natural state for habitat, wildlife refuges, scientific study or open space. Ancillary or incidental use that directly promotes Public Trust uses, are directly supportive and necessary for trust uses, or that accommodate the public's enjoyment of trust lands, are also permitted. The use of the Center is consistent with the common law Public Trust Doctrine as it supports and facilitates public access and the public's enjoyment of and education about the Bolsa Chica Ecological Reserve.

The subject facilities have existed for many years at this location. The facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Based on the foregoing, Commission staff believes that the use and maintenance of the Center is consistent with the common law Public Trust Doctrine.

The lease includes certain provisions protecting the public use of the proposed lease area by requiring the Conservancy to obtain all necessary permits, a nonexclusive use provision, and a reservation to the people of the State of an access easement to and from the lease area. The lease provides for Commission staff review of interpretive signs and for an acknowledgment of Commission ownership of Bolsa Chica lands in printed materials; these provisions ensure that the State's and Commission's role in stewardship and ownership at Bolsa Chica is acknowledged and accurately represented. The lease also requires the Conservancy to conduct all repair and maintenance work. The proposed lease has a limited term of 25 years, which allows the Commission

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flexibility if it determines that the Public Trust needs of the area change over time.

Climate Change:

Climate change impacts, including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The Bolsa Chica wetland preserve, and associated Interpretive Center, are located along a tidally influenced channel and may be vulnerable to the impacts of sea-level rise. However, restoration of the Bolsa Chica site included cutting a new inlet channel and installing tide gates to help regulate water flow to some muted tidal basins; therefore, the preserve acts as a buffer to storm surges and may lessen flood risks.

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 Los Angeles 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 Los Angeles¹

Year	Projection (feet)
2030	0.7
2040	1.2
2050	1.8
2100	6.7

Source: Table 28, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

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, drought, and storms (especially when coupled with sea-level rise). The combination of these conditions will likely result in increased wave run-up, storm surge, and flooding in coastal and near coastal areas. 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. Beaches and coastal

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landscapes will be exposed to increased wave force and run-up, potentially resulting in greater beach erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. The lease area contains the Center, and flooding conditions could cause these structures to be damaged.

More locally based knowledge of sea-level rise impacts and adaptation strategies will be available to the area as a result of the ongoing efforts to update the City of Huntington Beach's Local Coastal Program and General Plan, and through the City's Coastal Resiliency Task Force. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs 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 is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The existing lease has approximately 11 years before it would expire, but the parties have agreed that it is preferable to proceed under a new lease rather than amend the existing lease. Acceptance of the lease quitclaim will release the lessee from future performance under the lease without waiving any past liabilities that have accrued. Through the lease quitclaim, the lessee relinquishes the future right to occupy the land as written under the existing lease in consideration for the granting of a new lease. The Commission's acceptance of the quitclaim would terminate the existing lease.
2. 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 also has no right to a new lease or to renewal of any previous lease.

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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, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
4. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) 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).

5. **Existing Facilities:** Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.
6. **Replacement of the Interpretive Center:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302. Staff has examined the proposed construction plan, and while the proposed replacement structures will be somewhat larger than the current buildings, the replacement structures would have a similar configuration and substantially the same purpose and capacity, falling within the exemption provided in section 15302.¹

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

FURTHER APPROVALS REQUIRED:

California Coastal Commission
California Department of Fish and Wildlife

EXHIBITS:

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

¹ See *Dehne v. Cty. of Santa Clara* (1981) 115 Cal.App.3d 827, 837, 841.

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Facilities: Find that issuance of the lease 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.

Replacement of the Interpretive Center: 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that acceptance of the lease quitclaim deed is in the best interests of the State; and
2. Find that the existing and, for a limited period, continuing use and maintenance of the Center and other related activities associated with the Center's programs will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and
3. Find that the removal and replacement of the Center will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and
4. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective June 25, 2020, for Lease No. PRC 8685.9 a General Lease – Other, issued to the Lessee.
2. Authorize issuance of a General Lease – Other to the Applicant beginning June 26, 2020, for a term of 25 years, for the use and maintenance of the existing Bolsa Chica Interpretive Center and other related activities associated with the Center's programs; removal of the existing Bolsa Chica Interpretive Center; and the

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construction, use, and maintenance of a new Bolsa Chica Interpretive Center, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be 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; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8685.9

LAND DESCRIPTION

Two parcels of sovereign land situated in the unincorporated territory of the County of Orange, State of California described as Part 1 and Part 2 in Exhibit 1 of that certain Corporation Quitclaim Deed recorded August 17, 1973 from Signal Bolsa Corporation to the State of California, in Book 10855 at Page 531 Official Records of Orange County.

END OF DESCRIPTION

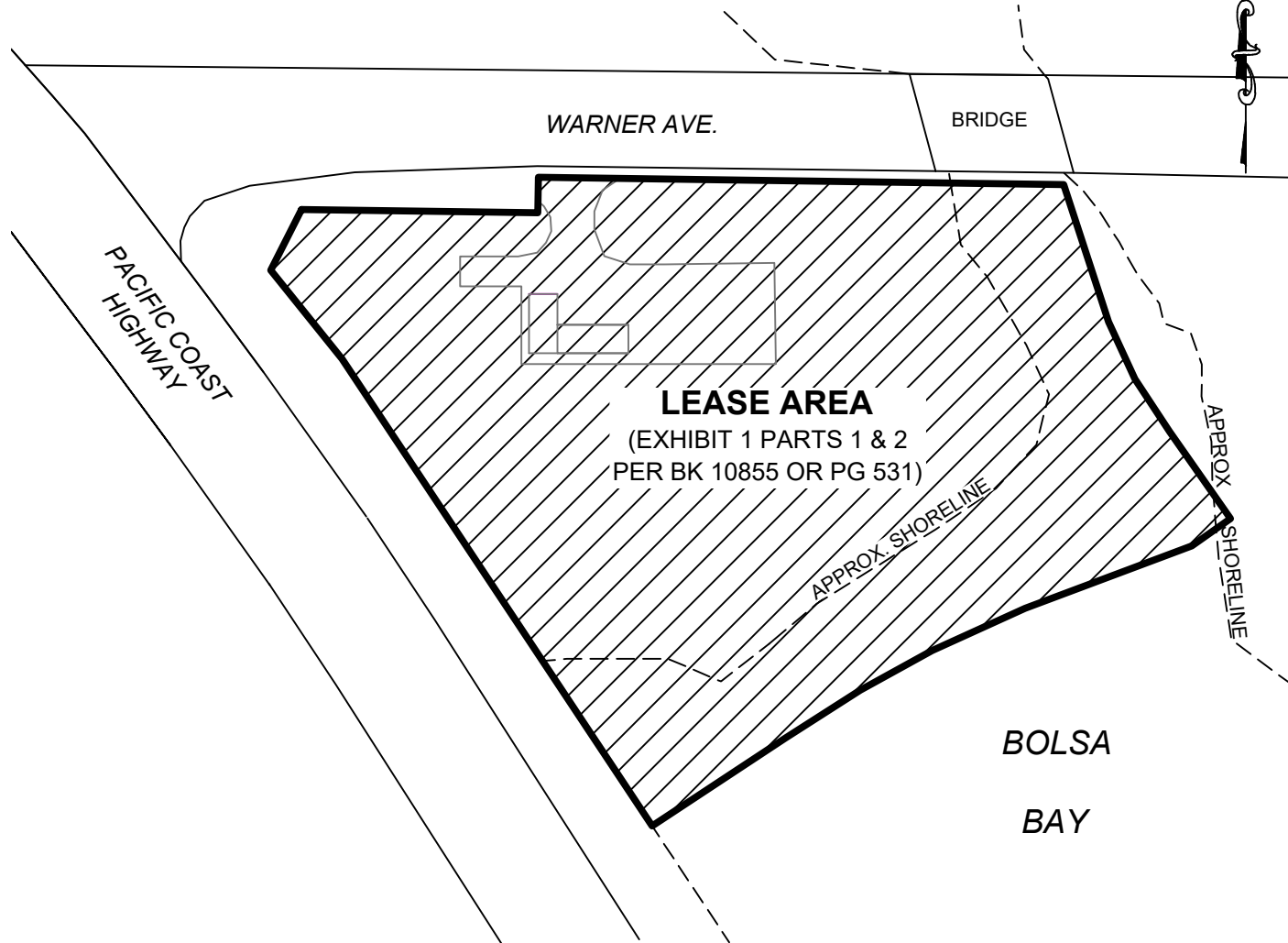
The above description is based on that original description prepared by Steve C. Lehman, PLS 7377 on 05/23/2006 as found in PRC 8685 file (W 26112), Calendar Item C26.

Revised 05/14/2020 by the California State Lands Commission Boundary Unit



NO SCALE

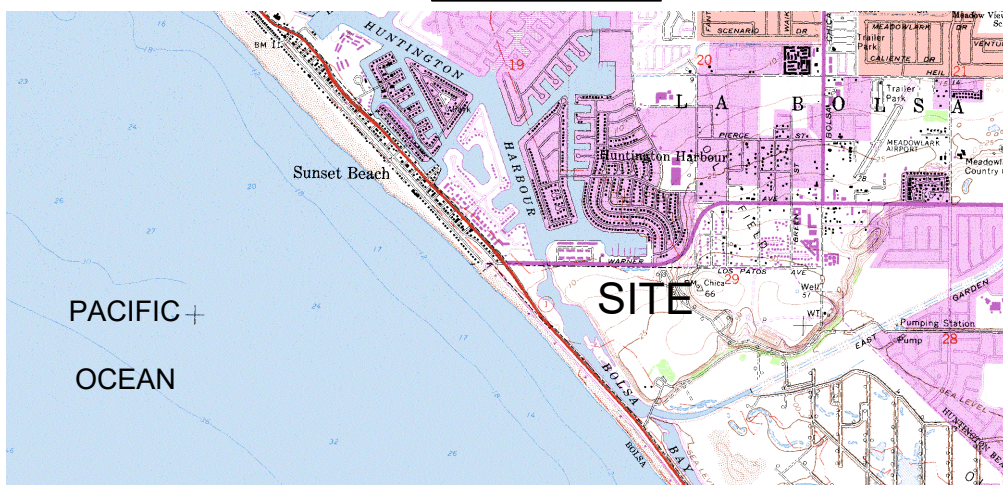
SITE



3842 WARNER AVE., HUNTINGTON BEACH

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 8685.9
BOLSA CHICA
CONSERVANCY
GENERAL LEASE-
OTHER
ORANGE COUNTY



TS 05/14/2020