

**CALENDAR ITEM
C11**

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05/05/08
WP 4674.1
M. Clark

**TERMINATION OF A GENERAL LEASE – RECREATIONAL USE AND ISSUANCE
OF A NEW GENERAL LEASE – RECREATIONAL USE**

LESSEES:

Larkspur Plaza LLC, a California Limited Liability Company; Robert Stevens Callender and Mary Sutro Callender; and J&E Property Management

APPLICANTS:

Paul B. Tietjen & Lana T. Tietjen, Trustees of the Paul B. Tietjen and Lana T. Tietjen Declaration of Trust dated August 6, 2002; and Howard A. Cooper

AREA, LAND TYPE, AND LOCATION:

0.11 acres, more or less, of sovereign lands in Corte Madera Creek, adjacent to 555 and 575 Larkspur Plaza Drive, city of Larkspur, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint use uncovered floating boat dock, ramp, pier, two concrete deadmen, two anchor cables and the retention of an existing boat lift as shown on Exhibit A.

LEASE TERM:

Ten years, beginning June 7, 2008.

CONSIDERATION:

\$794 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On June 7, 2004, the Commission authorized a ten-year General Lease – Recreational Use, to Larkspur Plaza LLC, a California Limited Liability

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Company; Robert Stevens Callender and Mary Sutro Callender; and J & E Property Management, a California Corporation. That lease will expire June 6, 2014. The ownership of the two upland parcels has since transferred to Paul B. Tietjen & Lana T. Tietjen, Trustees of the Paul B. Tietjen and Lana T. Tietjen Declaration of Trust dated August 6, 2002; and Howard A. Cooper. The Applicants are now applying for a new General Lease – Recreational Use.

3. The Applicants own the two adjacent upland parcels that are each improved with a five-unit apartment complex. The joint use uncovered floating boat dock, ramp, pier, boat lift, two deadmen, and two anchor cables are used as recreational facilities by the Applicants and tenants in both complexes. The Applicants do not qualify for a rent free Recreational Pier Lease because the upland properties are not used solely as a single-family dwelling.
4. **Termination of Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

5. **Existing Uncovered Floating Boat Dock, Ramp, Pier, Two Deadmen and Two Anchor Cables:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

6. **Retention of Existing Boat Lift:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 14, California Code of Regulations, section 15303.

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

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. but such activity will not affect those significant lands.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

EXISTING UNCOVERED FLOATING BOAT DOCK, RAMP, PIER, TWO DEADMEN, AND TWO ANCHOR CABLES: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

RETENTION OF EXISTING BOAT LIFT: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15303.

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 SECTIONS 6370, ET SEQ.

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AUTHORIZATION:

1. AUTHORIZE TERMINATION, EFFECTIVE JUNE 6, 2008, OF LEASE PRC 4674.9, A GENERAL LEASE – RECREATIONAL USE, ISSUED TO LARKSPUR PLAZA LLC, A CALIFORNIA LIMITED LIABILITY COMPANY; ROBERT STEVENS CALLENDER AND MARY SURTO CALLENDER; AND J & E PROPERTY MANAGEMENT.

2. AUTHORIZE ISSUANCE OF A TEN-YEAR GENERAL LEASE – RECREATIONAL USE TO PAUL B. TIETJEN & LANA T. TIETJEN, TRUSTEES OF THE PAUL B. TIETJEN AND LANA T. TIETJEN DECLARATION OF TRUST DATED AUGUST 6, 2002; AND HOWARD A. COOPER, BEGINNING JUNE 7, 2008, FOR THE CONTINUED USE AND MAINTENANCE OF A JOINT USE UNCOVERED FLOATING BOAT DOCK, RAMP, PIER, TWO DEADMEN, TWO ANCHOR CABLES, AND THE RETENTION OF AN EXISTING BOATLIFT AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$794, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; AND LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000.