

**CALENDAR ITEM  
C64**

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S 18

06/19/14  
W 26747  
R. Collins

**GENERAL LEASE –  
RECREATIONAL AND PROTECTIVE STRUCTURE USE**

**APPLICANT:**

Apolla Farthing and Art Acosta and Michelle Acosta

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the Colorado River, adjacent to 1150 Beach Drive, city of Needles, San Bernardino County.

**AUTHORIZED USE:**

Use and maintenance of two existing planter areas with rock and concrete retaining walls and electrical and irrigation appurtenances, concrete stairs, concrete patio, and riprap bankline, and construction, use, and maintenance of an aluminum stairway and gangway with railing, and a floating boat dock.

**LEASE TERM:**

10 years, beginning June 19, 2014.

**CONSIDERATION:**

**Two Planter Areas with Rock and Concrete Retaining Walls and Electrical and Irrigation Appurtenances, Concrete Patio, Aluminum Stairway and Gangway with Railing, and Floating Boat Dock:** Annual rent in the amount of \$470 per year, with the State reserving the right to fix a different rent periodically during the term of the lease, as provided in the lease.

**Concrete Stairs and Riprap Bankline:** Public use and benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the best interest of the State.

**SPECIFIC LEASE PROVISIONS:**

**Insurance:** Liability insurance in an amount no less than \$1,000,000 per occurrence.

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**Other:** Applicants acknowledge that the Public Pedestrian Access Easement shall remain open to the public and that no structures or improvements shall be erected and no personal property placed so as to obstruct or prevent public access in and along the Easement. Such improvements include, but are not limited to, fences, walls, railings, or landscaping. Applicants further acknowledge that they shall not place signs or advocate in any other manner in such a way as to prevent or discourage public use of the Public Pedestrian Access Easement.

**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. The State of California had its fee ownership of the sovereign land located in the Colorado River at this location confirmed in 1991 as a result of a Boundary Line Agreement and Compromise Settlement entered into between the Commission and Kahala Needles Partners, Ltd., a Nevada Limited Partnership, recorded as AD 134 dated January 1, 1991, and recorded on August 11, 1992, document No. 92-333250, Official Records, San Bernardino County, California. Projects, including new development or maintenance of existing facilities, extending waterward of the Ordinary High Water Mark (OHWM) fixed in the abovementioned Agreement (AD 134) require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicants' upland property is located along the Colorado River adjacent to the fixed OHWM.
3. Pursuant to AD 134, the State of California was granted a Public Pedestrian Access Easement running parallel to the fixed OHWM. The Easement is intended to provide public access to and along the bank of the Colorado River. The Easement affects lots 1-40 of the Rio Buena Vista residential subdivision, one of which is the Applicants' property. Public access to the Easement is from the northern or southern end of the subdivision, or from the Colorado River.
4. The United States Department of the Interior, Bureau of Reclamation (Reclamation), Yuma Area Office conducted a review by boat of the riprap bankline on March 27, 2002, and also conducted a site visit on April 10, 2002. The inspection revealed that the bankline was cleared of vegetation and that the federally-applied riprap and federally-constructed jetties were undisturbed and in good condition. By letter dated April 23, 2002, Reclamation acknowledged their capacity to apply additional riprap to the bankline location in the future was compromised due to the pending development of the upland residences and subsequently declared that

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Reclamation would not provide additional riprap to the bankline location in the future. Consequently, Reclamation decreed that the upland homeowner (Applicants) would be responsible for maintaining protection of their own banklines in the future, subject to the homeowners seeking approval and permitting of their riprap or bankline construction work from the United States Army Corps of Engineers under Section 10 of the Rivers and Harbors Act of 1899.

5. The Applicants have applied for a General Lease – Recreational and Protective Structure Use for two existing planter areas with rock and concrete retaining walls and electrical and irrigation appurtenances, concrete stairs, concrete patio, and riprap bankline and to construct an aluminum stairway and gangway with railing and a floating boat dock. The existing riprap bankline mutually benefits both the public and the Applicants, and will be maintained by the Applicants at no cost to the public.
6. Construction of the improvements will begin by July 1, 2014, and will be completed by September 15, 2014.
7. The 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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

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

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS OBTAINED:**

U.S. Bureau of Reclamation

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**FURTHER APPROVALS REQUIRED:**

U.S. Army Corps of Engineers  
California Department of Fish and Wildlife

**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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

**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 section 6370 et seq.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Apolla Farthing and Art Acosta and Michelle Acosta beginning June 19, 2014, for a term of 10 years, for use and maintenance of two existing planter areas with rock and concrete retaining walls and electrical and irrigation appurtenances, concrete stairs, concrete patio, and riprap bankline, and construction, use, and maintenance of an aluminum stairway and gangway with railing and floating boat dock 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 \$470, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; consideration for the concrete stairs and riprap bankline to be the public use and benefit with the State reserving the right to set a monetary consideration if it is determined to be in the best interest of the State; liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

W 26747

### LAND DESCRIPTION

Two parcels of State owned land adjacent to Lot 27 of Tract No. 15640 as shown on Tract Map recorded in Book 261, Pages 88 through 94, inclusive of Maps, in the Office of the County Recorder of San Bernardino County, lying in the bed of the Colorado River, County of San Bernardino, State of California, more particularly described as follows:

#### PARCEL 1

BEGINNING at the easterly corner of said Lot 27; thence northwesterly along the northeasterly line of said lot, said line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, N 42° 08' 05" W 45.00 feet to the northerly corner of said lot; thence leaving said northeasterly line and said Agreed Boundary Line, along the northeasterly prolongation of the northwesterly line of said lot N 47° 51' 55" E 60.00 feet; thence S 42° 08' 05" E 45.00 feet to the intersection with the northeasterly prolongation of the southeasterly line of said lot; thence southwesterly along said northeasterly prolongation S 47° 51' 55" W 60.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying waterward of the toe of revetment adjacent to said Lot 27.

#### PARCEL 2

BEGINNING at a point on the northeasterly line of said Lot 27, said line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, said point bears N 42° 08' 05" W 6.50 feet from the easterly corner of said Lot, N 42° 08' 05" W 38.50 feet to the northerly corner of said lot; thence leaving said northeasterly line and said Agreed Boundary Line, along the northeasterly prolongation of the northwesterly line of said lot N 47° 51' 55" E 97.05 feet; thence S 42° 08' 05" E 38.50 feet; thence N 47° 51' 55" E 97.05 feet to the POINT OF BEGINNING.

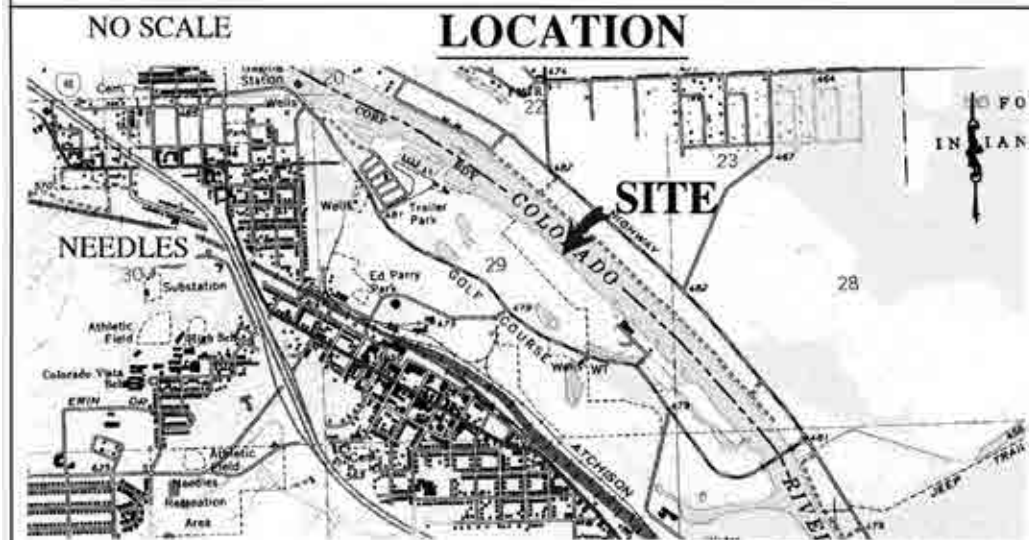
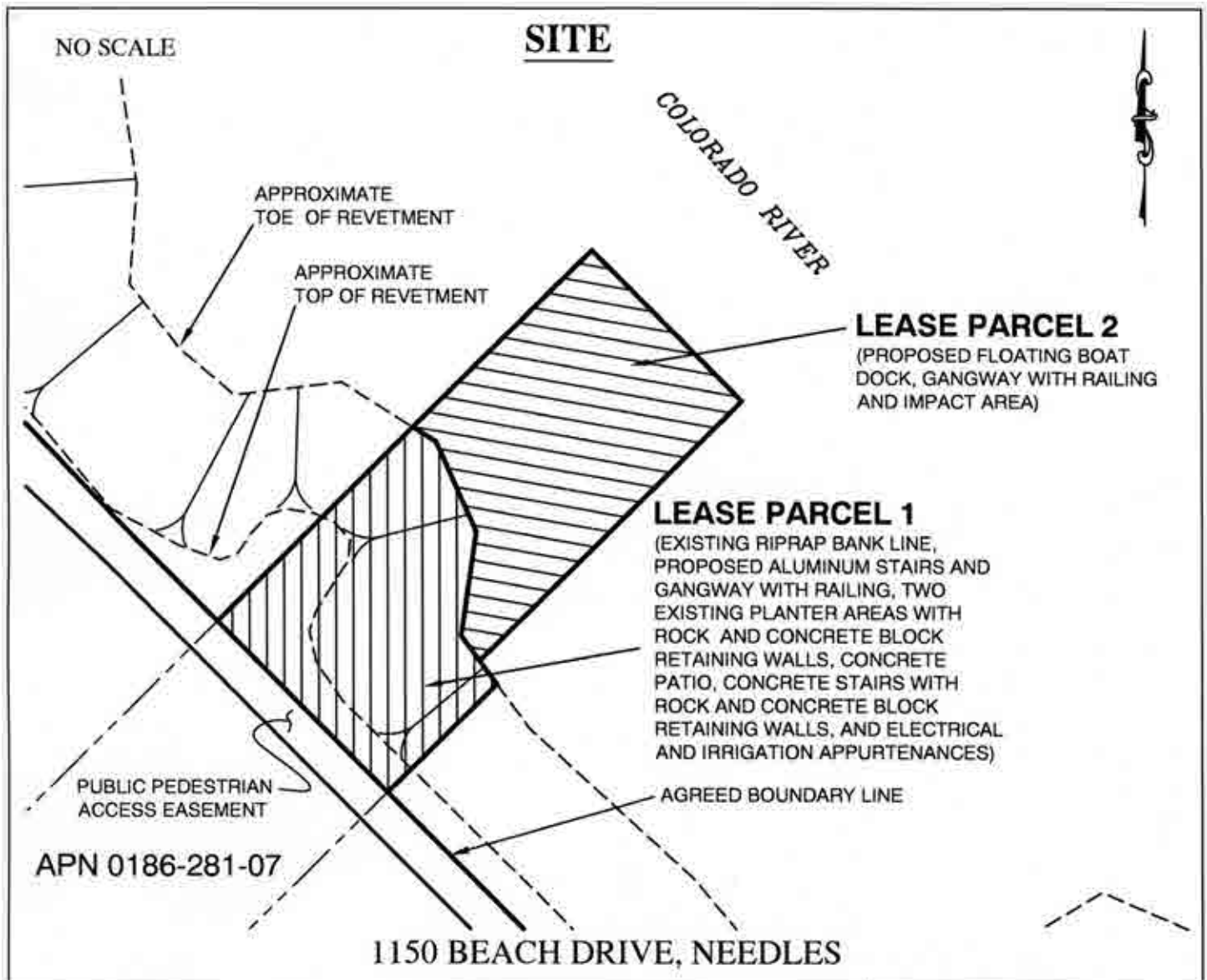
EXCEPTING THEREFROM any portion lying within above described PARCEL 1.

**END OF DESCRIPTION**

This description is based on Applicant provided design drawings for a proposed floating boat dock, gangway and stairs together with any and all appurtenances pertaining thereto, to build at a later date within the Lease time frame. This description is to be updated once as-built plans are submitted.

Prepared 05/08/14 by the California State Lands Commission Boundary Unit





**Exhibit B**

W 26747  
FARTHING & ACOSTA  
APN 0186-281-07  
GENERAL LEASE -  
RECREATIONAL AND  
PROTECTIVE STRUCTURE USE  
SAN BERNARDINO COUNTY



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.