

**STAFF REPORT
C21**

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08/17/17
PRC 8249.1
M. Schroeder

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of Petaluma

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 951 Petaluma Boulevard South, city of Petaluma, Sonoma County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, gangway, walkway, and six pilings.

LEASE TERM:

20 years, beginning August 17, 2017

CONSIDERATION:

\$239 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided in the lease.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On May 10, 2007, the Commission authorized a General Lease – Recreational Use for an existing uncovered floating boat dock, gangway, walkway, and six pilings to Petaluma Ecumenical Properties ([Item C55, May 10, 2007](#)). That lease expired on July 30, 2016. On June 10, 2011, ownership of the upland parcel was transferred to the City of Petaluma. The Applicant is now applying for General Lease – Public Agency Use for the continued use and maintenance of an existing uncovered floating boat dock, gangway, walkway, and six pilings.

STAFF REPORT NO. C21 (CONT'D)

Petaluma Ecumenical Properties paid annual rent through July 30, 2016. Therefore, staff recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$248 for the period beginning July 31, 2016, through August 16, 2017, the day before the new lease becomes effective.

The subject dock and appurtenant facilities are owned by the Applicant. The previous owner did not use the facilities for the docking and mooring of boats, rather the facilities remained in place and were not used for several years. Although the facilities are owned by a public agency, the facilities are not currently available for public use and boats are not docked or moored at the facilities. The Applicant purchased the upland with the goal of providing public access to the facilities in the future. At the present time, there are no funds available for development of a plan for the public use of the facilities. The potential use of the facilities for public access, fishing, and recreational boating are water-dependent uses that are generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The dock and appurtenant facilities have existed for many years at this location. The upland is developed with a commercial building and restricts the available uses of the proposed lease area. The facilities are built on a steeply sloped portion of the river bank. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land.

Climate Change:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The existing structures within the proposed lease area are located along the Petaluma River within a region identified as tidally influenced. The subject facilities are vulnerable to flooding at current sea levels and at higher risk of flood exposure given future projected scenarios of sea-level rise. The lease area contains fixed features like the walkway. By 2030, California's coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). This effect could increase the

STAFF REPORT NO. C21 (CONT'D)

Petaluma River's inundation levels within the lease area. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), 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 projected conditions could potentially raise the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause structures to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels exposing previously submerged structures to the elements potentially leading to increased wear and tear on the pilings and dock, reduce navigability of the channel thereby increasing hazards, and impact the function and utility of the lease area structures. The floating boat dock and adjustable gangway may be adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing its resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features may need to be reinforced to withstand higher levels of flood exposure because they would not be able to rise and fall with storms and droughts. The bank is heavily vegetated, which provides stability and reduces the amount of erosion and scour pressure it may experience during future events, but remains at risk of accelerated deterioration from currents and floods. Regular maintenance of the dock and appurtenant facilities, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Conclusion:

For all the reasons above, Commission 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, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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.

STAFF REPORT NO. **C21** (CONT'D)

2. The staff recommends that the Commission find that issuance of the lease 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 2, section 2905, subdivision (a)(2).

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

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is in the best interests of the State.

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.

STAFF REPORT NO. **C21** (CONT'D)

AUTHORIZATION:

1. Authorize acceptance of compensation in the amount of \$248 for unauthorized occupation of State land for the period beginning July 31, 2016, through August 16, 2017.

2. Authorize issuance of a General Lease – Public Agency Use to the City of Petaluma beginning August 17, 2017, for a term of 20 years, for the continued use and maintenance of an existing uncovered floating boat dock, gangway, walkway, and six pilings 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 \$239, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent on the 10th anniversary of the Lease term, as provided in the Lease.

EXHIBIT A

PRC 8249.1

LAND DESCRIPTION

A parcel of tide and submerged land situate on the left bank of the Petaluma River, lying adjacent to Swamp and Overflow Survey 13, patented dated December 24, 1862, County of Sonoma, State of California, and more particularly described as follows:

All those lands underlying an existing walkway, gangway, six (6) pilings and an uncovered floating boat dock lying adjacent to parcels as described in Exhibit A in that Grant Deed recorded June 10, 2011 in Document Number 2011049789, of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the right bank of the Petaluma River.

Accompanying plat is hereby made a part of this description.

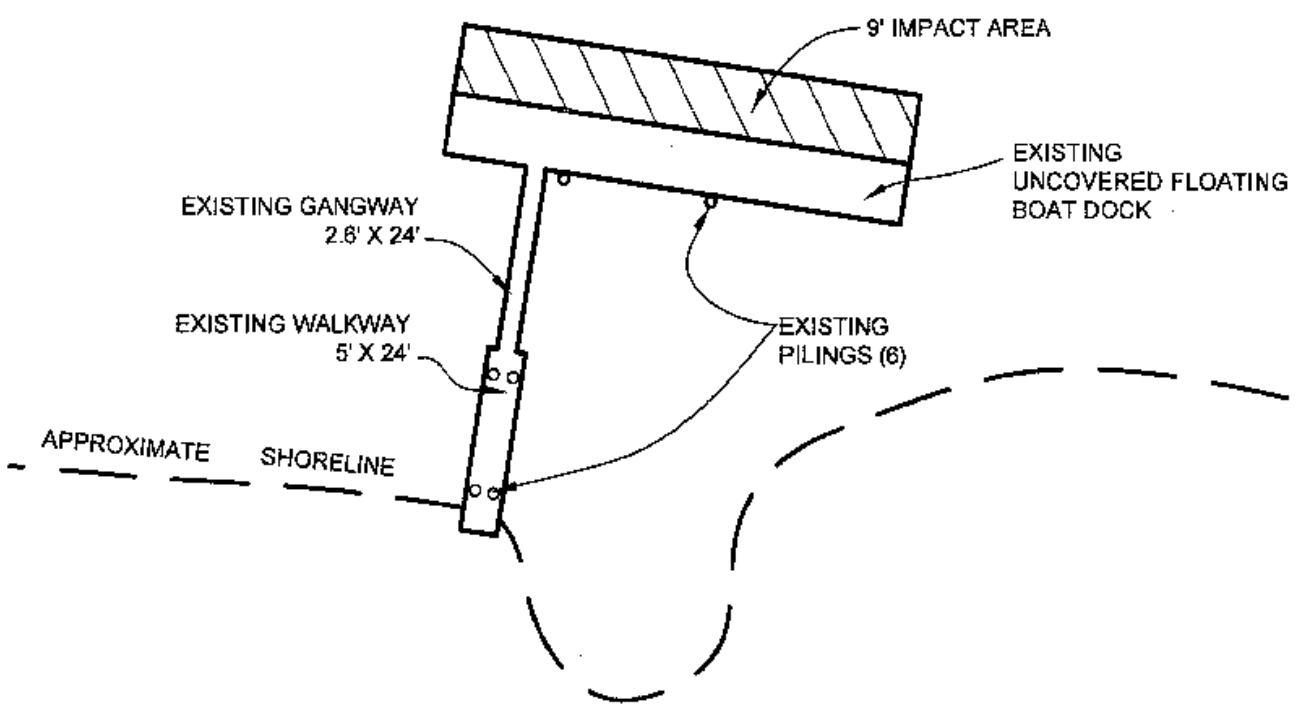
END OF DESCRIPTION

Prepared January 30, 2017 by the California State Lands Commission Boundary Unit.





Petaluma
River →



APN 008-530-007

EXHIBIT A

Page 2 of 2

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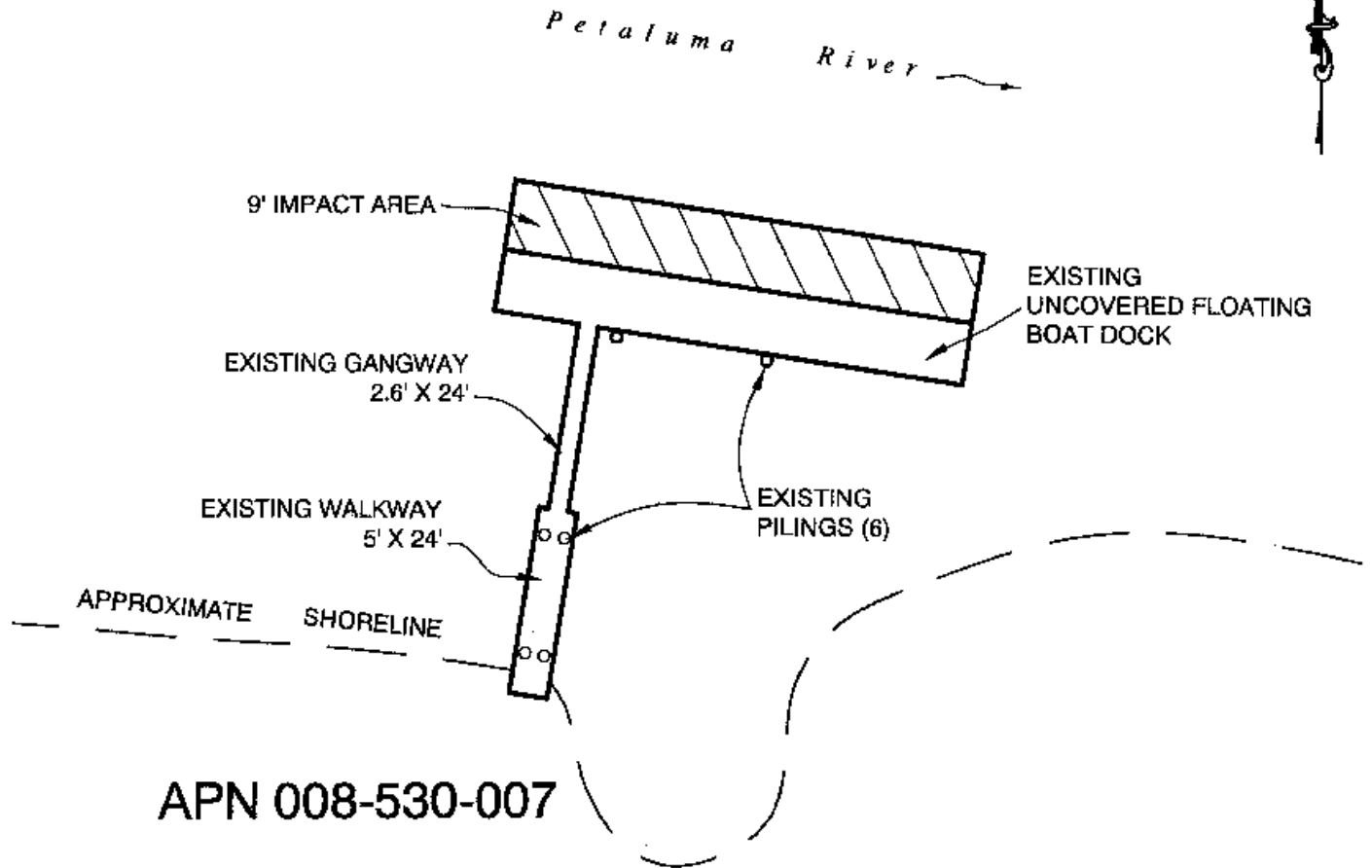
LAND DESCRIPTION PLAT
 PRC 8249.1, CITY OF PETALUMA
 SONOMA COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



951 PETALUMA BLVD. SOUTH, PETALUMA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8249.1
 THE CITY OF PETALUMA
 APN 008- 530-007
 GENERAL LEASE -
 PUBLIC AGENCY USE
 SONOMA 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.