

**STAFF REPORT
C44**

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11/29/17
PRC 6764.1
S. Avila

GENERAL LEASE - RECREATIONAL USE

LESSEE/APPLICANT:

Stillwater Yacht Club

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Stillwater Cove, adjacent to 2700 17 Mile Drive, Pebble Beach, Monterey County.

AUTHORIZED USE:

Use and maintenance of 23 mooring buoys with anchors and three attached uncovered floating boat docks.

LEASE TERM:

10 years, beginning November 1, 2017.

CONSIDERATION:

\$1,423 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance in an amount no less than \$2,000,000 per occurrence.

Other: In the event the permit issued by the Monterey Bay National Marine Sanctuary is terminated, then this lease shall also terminate.

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 August 22, 2008, the Commission authorized a General Lease – Recreational Use to the Stillwater Yacht Club, for a term of 10 years

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beginning November 1, 2007 ([Item C09, August, 22, 2008](#)). The lease expired on October 31, 2017. The Lessee has applied for a General Lease – Recreational Use, for the continued use and maintenance of 23 seasonal mooring buoys with anchors and three attached uncovered floating boat docks. There is an existing pier in Stillwater Cove that is under lease to Pebble Beach Company (Lease No. PRC 2714.1).

Stillwater Yacht Club provides complimentary access to their facilities to public service and government agencies. The buoy field contains 23 sets of buoy anchors, of which 13 have buoys attached. Three of the 13 buoyed anchor sets are dedicated for use by public service and government agencies, including Moss Landing Marine Research Laboratories, a consortium of seven California State University campuses focused on marine sciences, and the California Department of Fish and Wildlife (CDFW). These buoys are provided to these public entities at no charge. During the sailing season, the Applicant assists the US Coast Guard with response to calls for assistance, including monitoring two emergency radio channels from May 15 through September 30. The Department of Forestry and Fire Protection (CalFire) established life rescue in the bay responding to 911 calls, and its personnel launch their personal watercraft from the nearby pier using the Applicant's hoist at no charge. Two of the three attached floating boat docks are reserved for the use of the CalFire and CDFW, at no charge, for emergency preparedness drills and activities. In addition, federally protected kelp beds within the lease area are under continuous research by the previously mentioned local universities and by the Monterey Bay National Marine Sanctuary (MBNMS). The Applicant also provides free public access to Stillwater Beach for swimmers and kayakers, and access to their facilities to local Boys and Girls Clubs through the seasonal sailing programs that they sponsor.

The subject facilities, consisting of 13 mooring buoys, 23 anchor sets, and three attached uncovered floating boat docks, are privately owned and maintained and located within the Stillwater Cove of the Monterey Bay National Marine Sanctuary. The boat docks and mooring buoys facilitate recreational boating because they are used for the docking and mooring of recreational boats. Recreational boating is water-dependent and is 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 lands (Pub. Resources Code, § 6503.5).

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The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in a tidally influenced site. By 2030, the region 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). Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure.

Improvements to the lease area include 23 existing seasonal mooring buoys and anchors and three attached uncovered floating boat docks. The floating nature of the buoys and boat docks will allow them to rise and fall with tides and waves, increasing their resiliency to some sea-level rise impacts, but these structures may require more frequent maintenance to ensure continued function during and after storm seasons, and to avoid dislodgement of the docks. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgment that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

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Conclusion:

For all of 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. 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.
2. 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 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 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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning November 1, 2017, for a term of 10 years for the use and maintenance of 23 mooring buoys and anchors, and three attached uncovered floating boat docks, 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 \$1,423, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

PRC 6764.1

LAND DESCRIPTION

Those portions of tide and submerged land in Stillwater Cove in the Pacific Ocean, Monterey County, California more particularly described as follows:

BEGINNING at a point on the southeasterly corner of an existing lease as described in PRC 2714.1 on file at the California State Lands Commission under said PRC number; said POINT OF BEGINNING bears S 35°44'48" W 571.18 feet more or less from the found 2"x2" hub as shown at the most westerly corner of Record of Survey Volume X-1, Page 172 filed in Monterey County on April 9th 1958; thence S 88°09'30" E 47.38 feet; thence N 1°50'30" E 29.00 feet; thence N 88°09'30" W 47.38 feet; thence S 1°50'30" W 29.00 feet to the point of beginning.

TOGETHER WITH twenty three (23) circular parcels with radius 50 feet situated within the following described parcel:

BEGINNING at aforesaid POINT OF BEGINNING; thence S 59°15'27" E 868.76 feet; thence S 7°23'16" W 462.07 feet; thence S 73°48'36" W 995.25 feet; N 1°27'44" E 1127.09 feet; thence N 77°30'41" E 245.57 feet to the POINT OF BEGINNING.

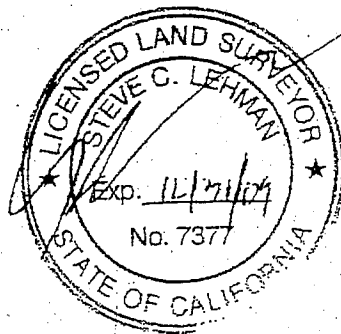
EXCEPTING THEREFROM any portions thereof lying within said PRC2714.1

EXCEPTING THEREFROM any portions thereof lying landward of the ordinary high water mark of said ocean.

The basis of bearings of this description is identical to said Record of Survey Volume X-1, Page 172 filed in Monterey County on April 9th 1958.

END OF DESCRIPTION

Prepared April 16, 2008 by California State Lands Commission Boundary Unit.



NO SCALE

SITE

APN 008-411-020

PIER COVERED
UNDER PRC 2714.1

EXISTING
FLOATING BOAT DOCKS (3)
& 9' IMPACT AREA

EXISTING
BOUNDARY OF
BUOY FIELD
(23 BUOYS)

PACIFIC
OCEAN

APPROXIMATE
SHORELINE

STILLWATER COVE

2700 17 MILE DRIVE, PEBBLE BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6764.1
 STILLWATER YACHT CLUB
 APN 008-411-020
 GENERAL LEASE -
 RECREATIONAL USE
 MONTEREY 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.

MJJ 9/13/17