

**STAFF REPORT
C64**

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02/27/18
W 27116
K. Connor

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Mountains Recreation and Conservation Authority

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, located adjacent to 23000 Pacific Coast Highway, City of Malibu, Los Angeles County

AUTHORIZED USE:

Construction, use, and maintenance of a public beach access stairway.

LEASE TERM:

20 years, beginning February 27, 2018.

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 interest.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

The Mountains Recreation and Conservation Authority (Applicant) has applied for a General Lease – Public Agency Use, for the construction, use, and maintenance of a new public beach access stairway. The Applicant also proposes repairs to an existing stairway next to the Malibu Pier, but that stairway does not encroach into the Commission's jurisdiction and therefore does not require Commission authorization. The proposed new stairway will be constructed from a public parking lot over an existing rock revetment to provide public access onto the public beach.

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Approximately 21 square feet of the proposed new stairway, encroaches into the Commission's jurisdiction and is the subject of this action.

The proposed activities are part of an ongoing project approved by the California Coastal Commission (CCC). In 1988, Coastal Development Permit (CDP) No. 5-89-576 was approved for the construction of the Malibu Beach Inn Hotel. The hotel is adjacent to and east of a parking lot owned by the California Department of Parks and Recreation (State Parks). The CDP required the Malibu Beach Inn Hotel to construct two public beach access stairways. However, because of planning discrepancies and hotel ownership changes, this requirement was never fulfilled.

Recently, the CCC issued a Consent Cease and Desist Order No. CCC-16-CD-04 and a Consent Administrative Civil Penalty Action No. CCC-16-AP-02 to the Malibu Beach Inn Hotel to complete the stairway requirement of CDP No. 5-89-576. To address these actions, the hotel owners provided the Applicant with funding to replace the existing stairway, and construct a new public beach access stairway.

The County of Los Angeles (County) owns the littoral parcel adjacent to the project site. Upland from the littoral parcel is a California Department of Parks and Recreation (State Parks) parking lot protected by a rock revetment along its waterward boundary. The rock revetment is located partially on State Parks property and partially on County property. The County is in the process of transferring ownership of the littoral parcel to the Applicant.

The proposed new stairway will be located on the east end of the State Parks parking lot. Construction will be completed from the upland State Parks parking lot where a construction staging zone will be placed. No construction materials, equipment, or waste will be stored or placed where wave erosion or dispersion occurs. No heavy machinery will be allowed on or stored on the beach. Construction debris will be removed from the construction areas as necessary to prevent any accumulation of sediment or other debris. All debris will be disposed of at a debris disposal site outside of the coastal zone or in a coastal zone area that is authorized by the CDP to receive the debris.

The proposed public beach access stairway will promote public access to the Pacific Ocean at this location, which is a recognized Public Trust use.

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Climate Change Analysis:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect open coastal areas in California. 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 and larger tidal events, and can affect erosion and sedimentation rates. 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 conditions will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. Climate change and sea-level rise will further influence coastal areas by changing erosion and sedimentation rates. Beaches and coastal landscapes will be exposed to increased wave force and run up, potentially resulting in greater beach erosion than previously experienced.

The proposed stairway will be sited on top of an existing sloping rock revetment protecting an upland parking lot. The underlying foundation of the stairway will be constructed with sand fill, a visqueen membrane, and concrete, which will create a new impermeable surface on the rock revetment to prevent energy dissipation of wave run up into the porous rock revetment. The revetment protects against uncertainties associated with variability in shoreline change rates due to ongoing beach erosion, and significant short-term beach losses due to large seasonal fluctuations and/or severe erosion due to extreme wave events and potential long-term acceleration of beach erosion due to sea-level rise. The stairway and concrete foundation and backside revetment are likely to degrade over the lease term, due to increased time of exposure to wave action, storm surge, and higher total water levels. Therefore, the stairway and revetment may require frequent maintenance to ensure continued function during and after storm seasons, and to reduce the risk they potentially pose to public safety, should these structures become a source of marine debris or a coastal hazard as a result of dislodgement or structural failure.

The revetment also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on adjacent sovereign land. The beach area seaward of the revetment is subject to width reduction and loss from erosion, scour, and coastal squeeze (the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure). Beach loss is anticipated to increase over the term of the lease, because of the

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combined factors of climate change impacts, natural dynamic coastal processes, and the presence of the rock revetment, which could influence long-term maintenance of the stairway. The stairway foundation must be designed to withstand these anticipated processes and not undermine the toe of the rock revetment from accelerated erosion, since the concrete toe of the stairway will protrude slightly seaward of the revetment as a new hard structure.

The 20-year lease term provides the Commission and the lessee an opportunity to reevaluate at a relatively short-term interval the effects of sea-level rise and the design and functionality of the stairway to take incremental adaptation steps as necessary and appropriate in the future.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine; 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, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and costal waterways.
2. At this time, there are no permits required by other agencies. The Applicant has authorization from the CCC under the existing CDP No. 5-89-576. Additionally, State Parks is processing a Memorandum of Understanding addressing and supporting the Applicant's compliance with CDP No. 5-89-576.
3. 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 or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

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

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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 or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to Mountains Recreation and Conservation Authority beginning February 27, 2018, for a term of 20 years, for the construction, use, and maintenance of a public beach access stairway, as described in Exhibit A, and shown in Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being 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 interest.

EXHIBIT A

W 27116

LAND DESCRIPTION

A parcel of tide and submerged land situated in the Pacific Ocean in the City of Malibu, Los Angeles County, State of California, more particularly described as follows:

Bounded on the northeast by a line lying 139 feet southwest and parallel with the southwesterly line of that parcel as shown on that Record of Survey filed in Book 108 at Page 35 of Record of Survey, in Los Angeles County Recorder;

Bounded on the southwest by a line lying 156 feet southwest and parallel with said southwesterly line of said parcel of said Record of Survey;

Bounded on the northwest by the ordinary high water mark of the Pacific Ocean;

Bounded on the southeast by a line parallel with and 10 feet perpendicular to said ordinary high water mark;

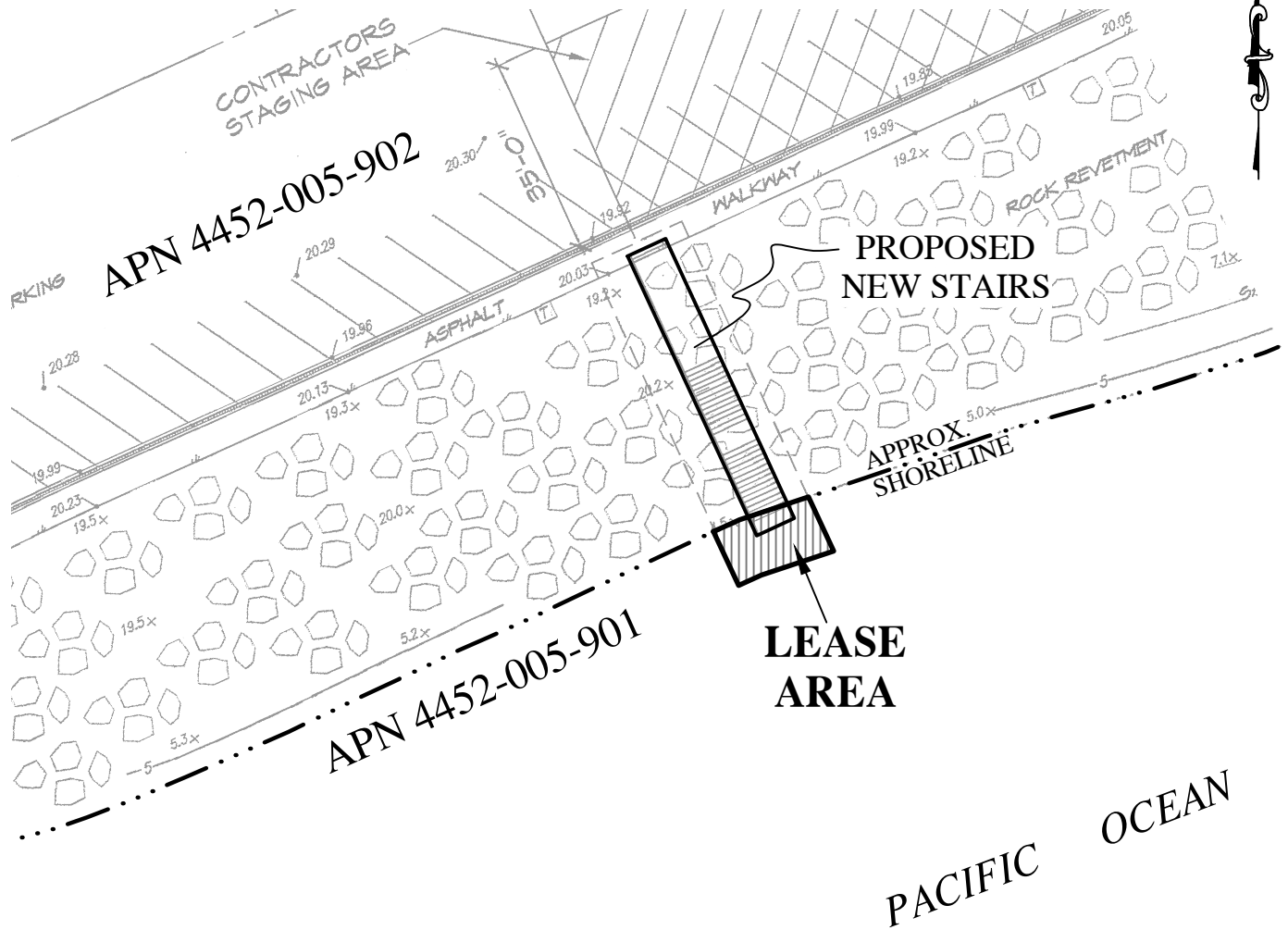
END OF DESCRIPTION

Prepared 12/26/17 by the California State Lands Commission Boundary Unit.



NO SCALE

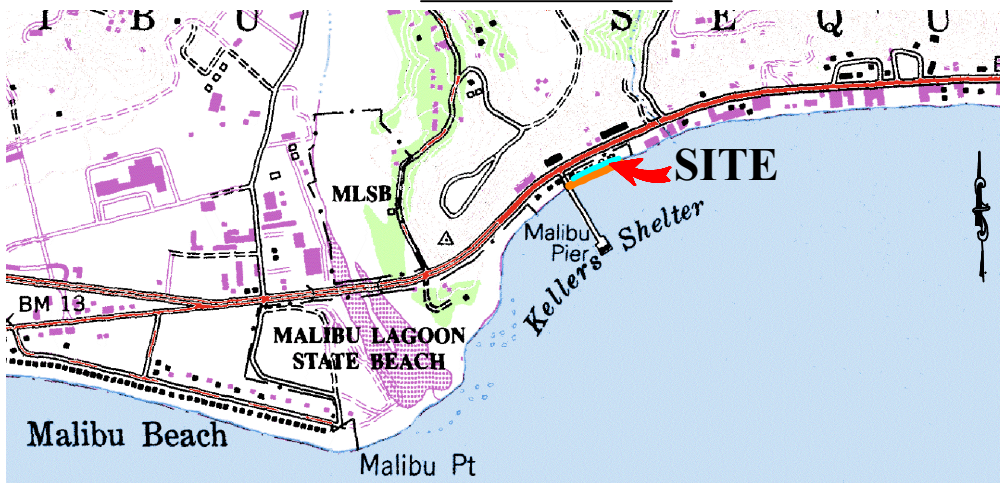
SITE



23000 PACIFIC COAST HIGHWAY, MALIBU

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

W 27116
 MOUNTAINS RECREATION &
 CONSERVATION AUTHORITY
 APN 4452-005-901
 GENERAL LEASE -
 PUBLIC AGENCY USE
 LOS ANGELES COUNTY



TS 12/26/17