

**STAFF REPORT
C28**

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08/23/18
PRC 7041.1
S. Avila

GENERAL LEASE - RECREATIONAL USE

APPLICANT:

Tidal Canal Holdings, LLC, a California limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Napa River, adjacent to 1998 Milton Road, city of Napa, Napa County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat ramp, uncovered floating boat dock, two pilings, and walkway.

LEASE TERM:

10 years, beginning August 23, 2018.

CONSIDERATION:

\$421 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

2. Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

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.

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Public Trust and the State's Best Interests Analysis:

On October 30, 2007, the Commission authorized a Recreational Pier Lease, for the continued use and maintenance of an existing boat ramp, uncovered floating boat dock, two pilings, and walkway to Harry P. Rieger and Diane M. Rieger, for a term of 10 years beginning October 30, 2007 ([Item C09, October 30, 2007](#)). The lease expired on October 29, 2017.

On June 26, 2017, ownership of the upland property transferred to Tidal Canal Holdings, LLC, a California limited liability company (Applicant). The Applicant is applying for a new General Lease – Recreational Use, for the continued use and maintenance of an existing boat ramp, uncovered floating boat dock, two pilings, and walkway.

Because the Applicant is a limited liability company, and not a natural person, it did not meet the statutory requirements for an exception to the imposition of rent during the period prior to the beginning date of the new lease. Therefore, staff recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$487 for the period beginning June 26, 2017, through August 22, 2018, the day before the new lease would become effective.

The Applicant owns the upland adjoining the lease premises. The subject boat ramp, dock, and appurtenant facilities are privately owned and maintained, used for the docking and mooring of boats, and facilitate recreational boating. Recreational boating is a water-dependent use that 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 land (Pub. Resources Code, § 6503.5).

The boat ramp, dock, and appurtenant facilities have existed for many years at this location and are built on a gently 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 10-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 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 occupying public land.

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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 subject facilities are located on the lower Napa River, a tidally influenced site vulnerable to flooding at current sea levels that will be at higher risk of flood exposure given projected scenarios of sea-level rise.

The lease premises are in an area that is designated as a Flood Zone by the Federal Emergency Management Agency, and the risk of flood exposure for the lease premises is likely to increase with time. By 2030, this region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the Napa 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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure, especially at this site because of the concrete boat launch ramp instead of typical vegetated bank or bank protection.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. The floating boat dock and walkway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing their 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 landward end of the walkway is hinged to the cement boat launch and cannot rise like the waterward end of the walkway can.

The fixed cement boat ramp and pilings may need reinforcement to withstand higher levels of flood exposure. The bank is not vegetated and does not provide additional stability or reduce the amount of erosion and

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scour pressure experienced during future events because there is no underground vegetation root system. Therefore, the bank and cement boat launch remain at risk of accelerated deterioration from high tides, currents, king tides, floods, and the future effects of sea-level rise. Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement for only a few more years because the boat launch ramp already floods daily during high tides without any floods or king tides.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change, including sea-level rise. The Applicant may also consider an alternative bank protection strategy to protect the anchoring points of the other lease premises structures and reduce flood impacts to the upland parcel.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust uses and values 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.

EXHIBITS:

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

STAFF REPORT NO. **C28** (CONT'D)

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).

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, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$487 for unauthorized occupation of State lands for the period beginning June 26, 2017, through August 22, 2018.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 23, 2018, for a term of 10 years, for continued use and maintenance of an existing boat ramp, uncovered floating boat dock, two pilings, and walkway, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; rent in the amount of \$421 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7041.1

LAND DESCRIPTION

A parcel of tide and submerged land situate on the right bank of the Napa River, lying adjacent to Swamp and Overflow Location 840, patented July 3, 1893, County of Napa, State of California, and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, walkway and boat ramp lying adjacent to a parcel as described in Exhibit A in that Grant Deed recorded June 26, 2017 as Document Number 2017-0014319, in 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 Napa River.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared June 21, 2018 by the California State Lands Commission Boundary Unit.





APN 48-050-012

EXISTING BOAT RAMP 36' X 34'

EXISTING GANGWAY 6' X 50'

9' IMPACT AREA

EXISTING UNCOVERED FLOATING BOAT DOCK 9' X 40'

SHORELINE
APPROX.

River

Napa

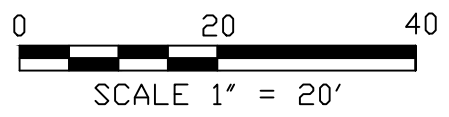


EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 7041.1, TIDAL CANAL HOLDINGS, LLC
 NAPA COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

APN 48-050-012

EXISTING BOAT RAMP 36' X 34'

EXISTING GANGWAY 6' X 50'

9' IMPACT AREA

EXISTING UNCOVERED FLOATING BOAT DOCK 9' X 40'

SHORELINE
APPROX.

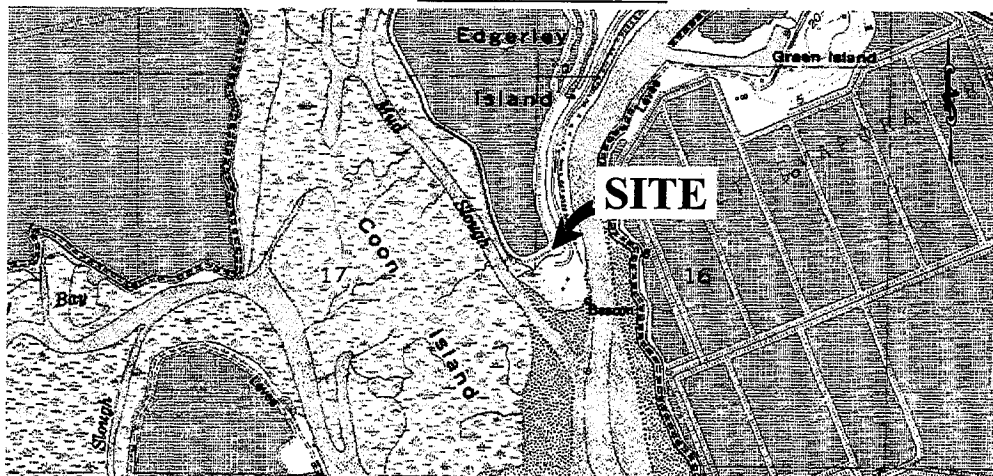
Napa

River

1998 MILTON ROAD, NAPA RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7041.1
 TIDAL CANAL HOLDINGS, LLC
 APN 48-050-012
 GENERAL LEASE - RECREATIONAL USE
 NAPA COUNTY



MJJ 6/19/18

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.