

**STAFF REPORT
C13**

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10/18/18
PRC 8798.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Pacific Union College

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Albion River, adjacent to 34100 Albion Street, Albion, Mendocino County.

AUTHORIZED USE:

Continued use and maintenance of an existing T-shaped floating dock facility, water line, and 20 steel-cased cement pilings.

LEASE TERM:

10 years, beginning August 22, 2018.

CONSIDERATION:

\$635 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

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 10-year General Lease – Recreational Use to Pacific Union College for the construction, use and maintenance of 20 steel-cased cement pilings, a T-shaped floating dock facility with electrical, water and sewer conduit, and a pump-out station ([Item C38, August 22, 2008](#)). Construction was completed in 2011, but the electrical, sewer conduit, and the pump-out station were never completed. On April 26, 2013, the Commission authorized a revision of rent to revise the annual rent from \$540 to \$563 per year ([Item C22, April 26, 2013](#)).

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The lease expired on August 21, 2018. The Applicant is applying for a new lease.

The Applicant owns the upland adjoining the lease premises. The subject 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 dock and appurtenant facilities have existed for many years at this location. The facilities are built on a 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 the occupation of public land.

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 project area is located in the Albion River less than 1 mile from the Pacific Ocean. The area is 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 region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), 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

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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.

The lease premises include a T-shaped floating dock supported by 20 steel-cased cement pilings. The dock includes a water line. The combination of the above projected climate change conditions could increase the likelihood of damage to the lease premises during the term of the lease. The floating dock will be able to adjust to changing river elevations, but the dock will be subject to ongoing stress from high river flows and large floating woody debris during flood events. The fixed pilings may require more frequent maintenance and reinforcement to ensure continued functionality and to avoid dislodgement of dock facilities. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

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 effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with the 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).

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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

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 common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 22, 2018, for a term of 10 years, for the continued use and maintenance of an existing T-shaped floating dock facility, water line, and 20 steel-cased cement 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 \$635, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8798.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Albion River, Mendocino County, California, Section 21, T16N, R17W, MDM, said parcel being more particularly described as follows:

COMMENCING at a 1 1/2 " iron pipe at the most westerly corner of the lands of Pacific Union College as shown and delineated on that certain record of survey, filed in map case 2, drawer 17, pages 78, Mendocino County Records; thence from said point N 18°59'20" E, a distance of 488.51 feet to a point in the Albion River, said point being the TRUE POINT OF BEGINNING; thence S 55°01'54" W, 79.00 feet; thence N 34°58'06" W, 26.00 feet; thence N 55°01'54" E, 180.00 feet; thence S 34°58'06" E, 26.00 feet; thence S 55°01'54" W, 75.00 feet; thence S 34°58'06" E, 72 feet more or less to the southerly ordinary high water mark of the Albion River; thence southwesterly along said ordinary high water mark to a point that bears South 34°58'06" East from the TRUE POINT OF BEGINNING, thence North 34°58'06" West, 75 feet more or less, to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying above the ordinary high water mark of the Albion River.

Bearings are based on, California Coordinate System, 1927, Zone 2.

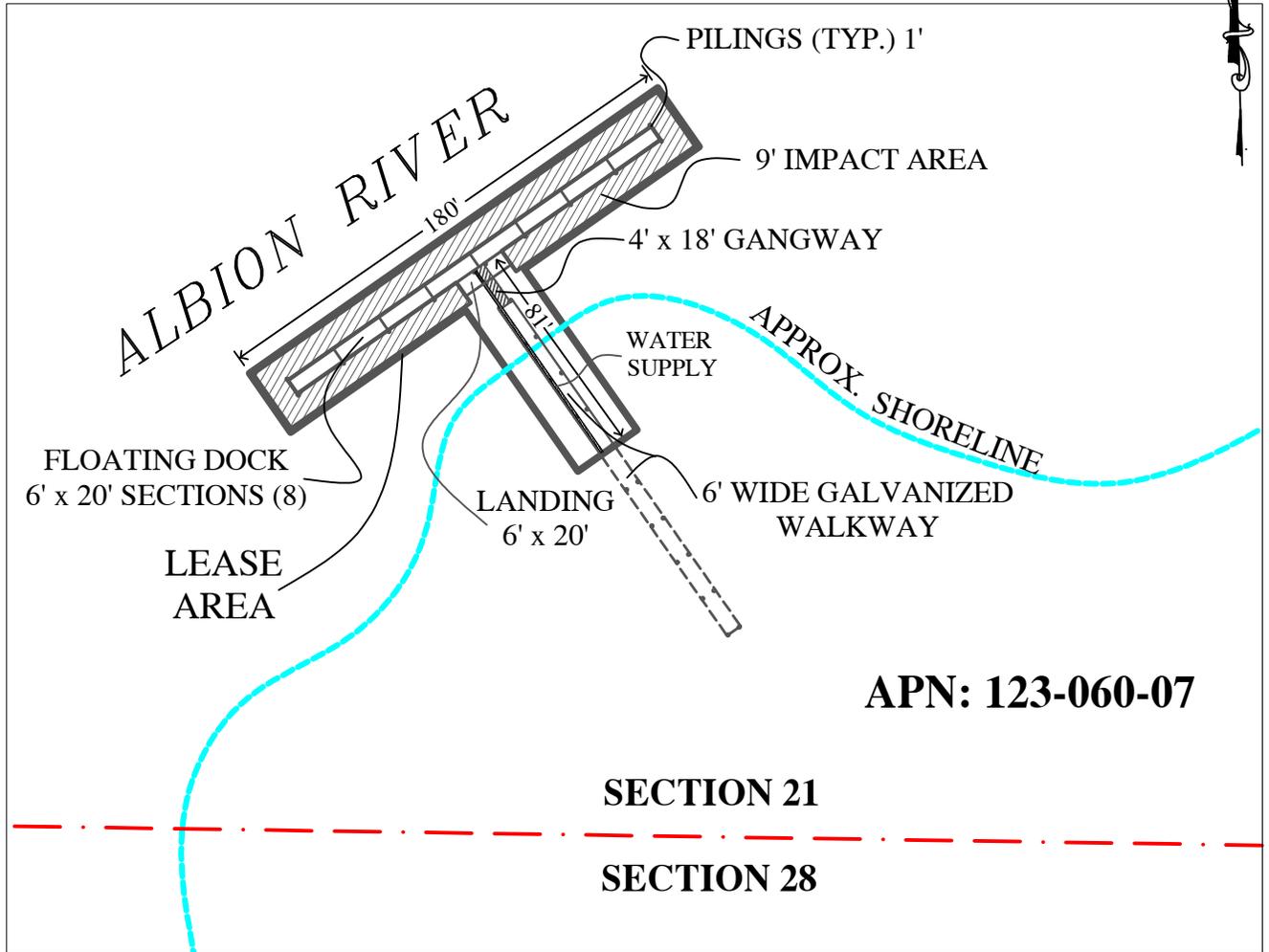
END OF DESCRIPTION

PREPARED 11/19/08 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

SITE



34100 Albion Street, Albion

NO SCALE

LOCATION



Exhibit B

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PACIFIC UNION COLLEGE

APN: 123-060-07

GENERAL LEASE -

RECREATIONAL USE

MENDOCINO 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.