

## STAFF REPORT

**53**

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08/23/19

PRC 4216.9

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K. Connor

### GENERAL LEASE – PUBLIC AGENCY USE

#### APPLICANT:

Los Angeles County Flood Control District

#### PROPOSED LEASE:

##### *AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Pacific Ocean, adjacent to Will Rogers Beach State Park, near Pacific Palisades, Los Angeles County.

##### *AUTHORIZED USE:*

Use and maintenance of two box culverts for stormwater discharge.

##### *LEASE TERM:*

25 years, beginning May 29, 2018.

##### *CONSIDERATION:*

The public health and safety, with the State reserving the right to set a monetary rent if the Commission finds such action to be in the State's best interests.

#### STAFF ANALYSIS AND RECOMMENDATION:

##### **Authority:**

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

##### **Public Trust and State's Best Interests Analysis:**

On May 26, 1969, the Commission authorized Permit No. PRC 4216.9, a Public Agency Permit, for the construction of a reinforced concrete box culvert for flood-control purposes to the Applicant ([Item 23, May 26, 1969](#)). That permit expired on May 28, 2018. On July 24, 1975, the Commission authorized Permit No. PRC 5024.9, a Public Agency Permit, for the continued use and maintenance of another reinforced concrete box culvert for stormwater drainage to the Applicant ([Item 7, July 24, 1975](#)). That lease expired on August 31, 2018. The Applicant is now applying for a new General Lease – Public Agency Use for the use and maintenance of the two existing box culverts previously authorized separately by the

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Commission. Due to the similar use, close proximity and single Applicant, staff recommends the issuance of one lease to include both box culverts.

The box culverts were constructed in 1969 and are for flood control purposes. The improvements receive stormwater from inland areas around Pulga Canyon and near Will Rogers Beach State Park, and safely discharge that stormwater into the Pacific Ocean. The culverts protect public property and safety by allowing stormwater to safely flow into the ocean instead of over structures or public land.

Staff has no record of the box culverts impacting Public Trust uses, needs or values within the leased area. The box culverts are completely buried on the beach and partially buried in the surf zone but do not impact recreational uses like surfing and swimming. Additionally, to staff's knowledge, the box culverts do not impact navigation or fishing.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease is limited to a 25-year term and does not grant the lessee exclusive rights to the lease premises and 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.

### **Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, increased flooding, and erosion affect both open coastal areas and inland waterways in California. The existing reinforced concrete box culverts are located along the Pacific Ocean, near 16318 Pacific Coast Highway, Will Rogers State Beach, Pacific Palisades, Los Angeles County.

Since the existing concrete box culverts are in an area that experiences flooding, storm surge, wave run-up, and wave action during extreme tides and storms, sea-level rise is only going to worsen these conditions.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The Santa Monica tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

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**Table 1. Projected Sea-Level Rise for Santa Monica<sup>1</sup>**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.8
2040	1.2
2050	1.9
2100	6.8

Source: Table 28, State of California Sea-Level Rise  
Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to  
2009 baseline.

The combination of these projected conditions could increase the likelihood of future exposure and damage to the concrete box culverts. As a result, they may require more frequent maintenance and burial to ensure continued function during and after storm seasons and to avoid damage or dislodgement. In the future, the box culverts may also need additional fortification to withstand higher levels of flood exposure and sea-level rise. Therefore, the condition of the concrete box culverts will be reassessed at the end of the 25-year lease term. Further climate change impact analyses on the lease area will be assessed at that time if an application is submitted for a new lease and would be based on projected sea-level rise scenarios at that time.

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.

**Conclusion:**

For all the reasons above, staff believes the proposed lease will not substantially interfere with the common law Public Trust Doctrine and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the box culverts and restore

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the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

2. 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.
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 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. Legal 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; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease - Public Agency Use to the Applicant beginning May 29, 2018, for a term of 25 years, for the use and maintenance of two existing box culverts for stormwater discharge, in the Pacific Ocean, near Will Rogers Beach State Park, as described in Exhibit

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A and shown on 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 interests.

## **EXHIBIT A**

**PRC 4216.9**

### **LAND DESCRIPTION**

Two parcels of tide and submerged land situate in the bed of the Santa Monica Bay of the Pacific Ocean, adjacent to Will Rogers Beach State Park, Los Angeles County, State of California, more particularly described as follows:

#### **PARCEL 1**

A 48-foot strip of tide and submerged land, lying 24 feet on each side of the following described centerline:

BEGINNING at a point in the centerline of Pacific Coast Highway, 80 feet wide, said point being North  $70^{\circ} 52' 07''$  West 173.04 from Division of Highway centerline station 299+95.27 B.C., Route LA 60B that is shown in City of Los Angeles C.E.F.B. 21410-18; thence from said point of beginning South  $18^{\circ} 51' 53''$  West 501.00 feet to the TERMINUS of said centerline.

#### **PARCEL 2**

A 50-foot wide strip of tide and submerged land, lying 25 feet on each side of the following described centerline:

BEGINNING at a point on the centerline of an 80-foot wide strip of land, as shown on the map recorded in Book 1, Page 7 of State Highway Maps, in the Office of the County Recorder of said County, distant S  $59^{\circ} 57' 44''$  E 104.60 feet from that equation in stationing marked "320+05.22 B.K. = 320+05.00 B.C. Ahd" as shown on said map; thence from said point of beginning S  $33^{\circ} 53' 58''$  W, 489.96 feet to the TERMINUS of the herein described centerline.

The sidelines of said strips of land shall be prolonged or shortened so as to begin at the ordinary high water mark of said Pacific Ocean and terminate at lines perpendicular to said terminus of said centerlines.

EXCEPTING THEREFROM any portion of said land lying landward of the ordinary high water mark of said Pacific Ocean.

## END OF DESCRIPTION

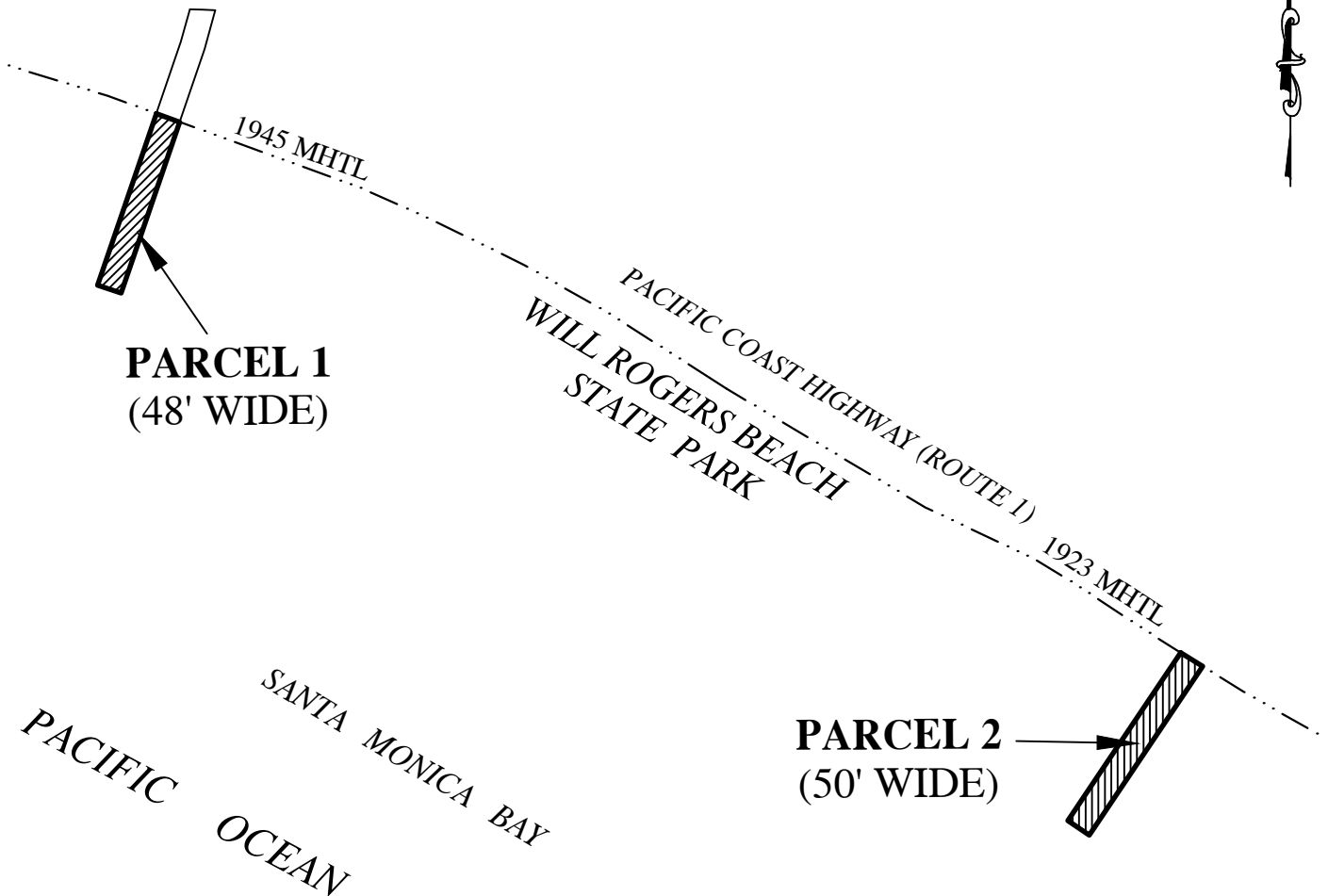
Revised by the California State Lands Commission Boundary Unit 07/26/19.

PARCEL 1 based on that original description prepared State Lands Commission on 05/29/1969 as found in PRC 4216.9 file. PARCEL 2 based on that original description prepared State Lands Commission on 07/24/1975 as found in PRC 5024.9 file, Calendar Item 7.



NO SCALE

## SITE



WILL ROGERS BEACH STATE PARK, CITY OF LOS ANGELES

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**

PRC 4216.9  
LA COUNTY PUBLIC  
WORKS  
GENERAL LEASE -  
PUBLIC AGENCY USE  
LOS ANGELES COUNTY



TS 07/26/19