

**STAFF REPORT
C29**

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04/05/19
W 27225
J. Holt

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

County of Marin

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Tomales Bay, adjacent to Chicken Ranch Beach Park, near Inverness, Marin County.

AUTHORIZED USE:

Installation, use, and maintenance of six marker buoys.

LEASE TERM:

10 years, beginning April 5, 2019.

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 interests.

SPECIFIC LEASE PROVISIONS:

- Lessee agrees to obtain necessary permits from all applicable regulatory agencies, prior to installation of the proposed buoys.
- Lessee agrees that installation will not encroach on environmentally sensitive habitats, such as eelgrass and other seagrass species.

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 Applicant is proposing the installation of six marker buoys, adjacent to Chicken Ranch Beach Park, near Inverness, in Marin County. The proposed project site comprises three acres along the west shore of

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Tomales Bay. The buoys will comply with the specifications and requirements of the Tomales Bay Mooring Program. The Applicant is now applying for a General Lease – Public Agency Use, for the installation, use, and maintenance of six marker buoys in Tomales Bay. The Applicant is performing due diligence with permit acquisition by filing applications with all applicable regulatory agencies.

The proposed project will increase awareness of recreational zones at Chicken Ranch Beach Park, thereby enhancing public safety. The marker buoys will designate a safe swim area and discourage motorized watercraft. A swim area would be Public Trust consistent, since swimming is a recognized Public Trust use. Recreational facilities that enhance public safety and use of State waterways are generally consistent with the common law Public Trust Doctrine. The proposed buoys will not encroach on environmentally sensitive habitats, such as eelgrass and other seagrass species, as required in Section 2 of the lease. Installation will be scheduled for fall and winter months to avoid periods of growth. The Applicant acknowledges the existence and preservation goals of the Greater Farallones National Marine Sanctuary.

The proposed project will not significantly alter the land. The proposed lease includes provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. The lease does not alienate the State's fee simple interest or permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

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 Tomales Bay, which is a tidally influenced site vulnerable to flooding at current sea levels; therefore, this area will likely be at a higher risk of flood exposure given future projection scenarios of sea-level rise.

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 Point Reyes tide gauge was

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used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for Point Reyes¹

Year	Projection (feet)
2030	0.8
2050	2.8
2100	7

Source: Table 10, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a baseline of the year 2000.

The proposed lease area will include six marker buoys in Tomales Bay. While the buoys are designed to float on the water's surface and move with the ebb and flow of current tides, a longer chain connecting the buoy to the anchors on the bay bottom may be necessary in the future to accommodate rising sea levels. Regular maintenance 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 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.
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 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

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

3. Staff recommends authorization of the six marker buoys in the proposed location; however, the final placement of the buoys may be different based on conditions at the time of installation. Staff recommends that the Commission delegate to the Executive Officer, or designee, the authority to amend the proposed lease and exhibits if necessary, to accurately reflect the final location of the buoys, away from eelgrass and other seagrass species, as required in the lease.

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 Public Trust needs and values 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.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Public Agency Use, to the Applicant beginning April 5, 2019, for a term of 10 years, for the installation, use, and maintenance of six marker buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; 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 interests.
2. Delegate to the Executive Officer, or designee, the authority to amend the lease and exhibits if necessary, to accurately reflect the final location of the buoys. Buoy locations may not encroach on

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environmentally sensitive habitats, such as eelgrass and other seagrass species.

EXHIBIT A

W 27225

LAND DESCRIPTION

Six (6) parcels of submerged land situated in the bed of Tomales Bay in the Greater Farallones National Marine Sanctuary, County of Marin, State of California, more particularly described as follows:

PARCELS 1 - 6 – BUOYS

Six circular parcels of land, being 50 feet in diameter, underlying six buoys lying adjacent to Tide Lands Survey 170, patented May 15, 1874, on file in the Sacramento office of the California State Lands Commission.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/25/2019 by the California State Lands Commission Boundary Unit.



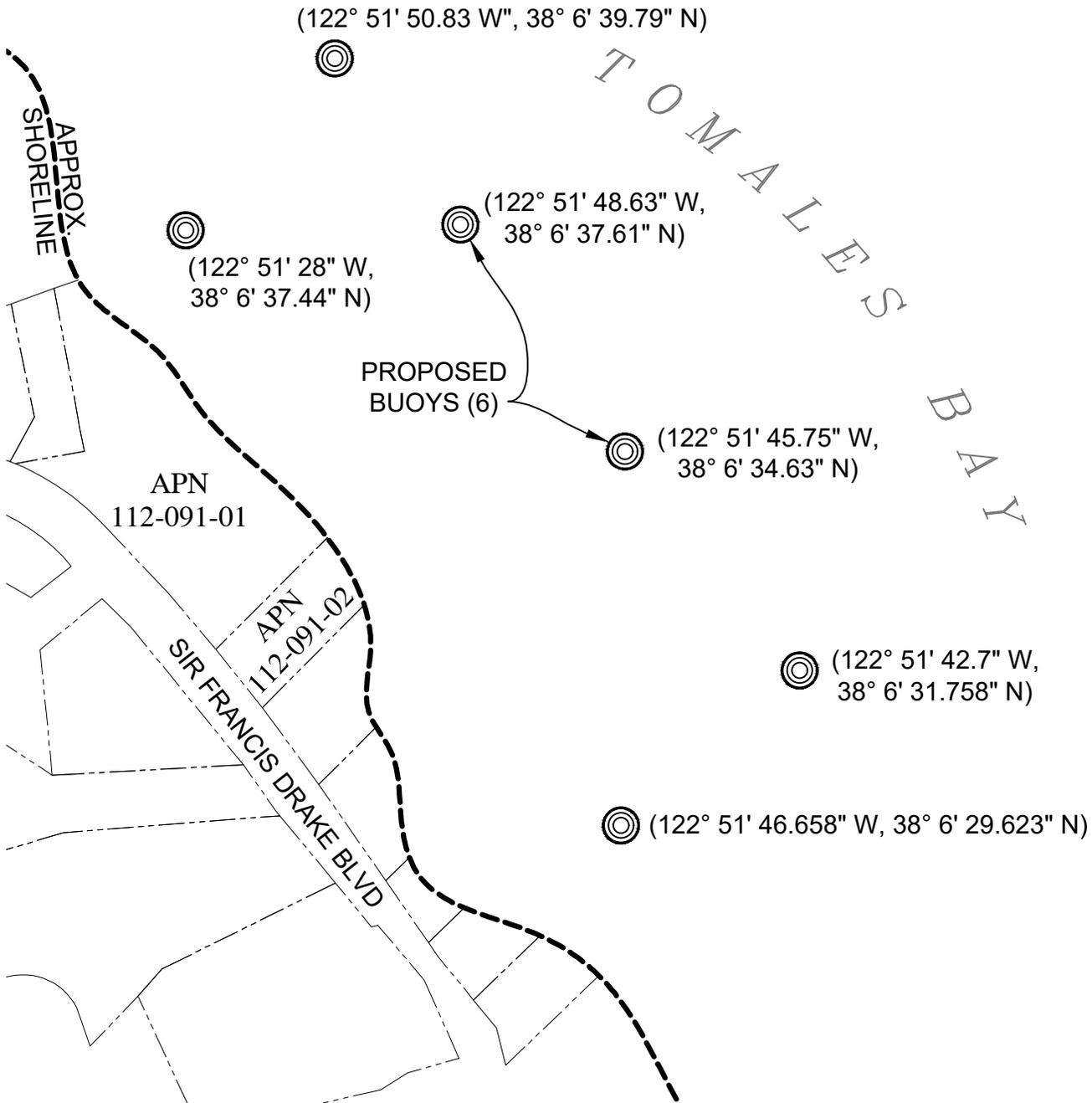
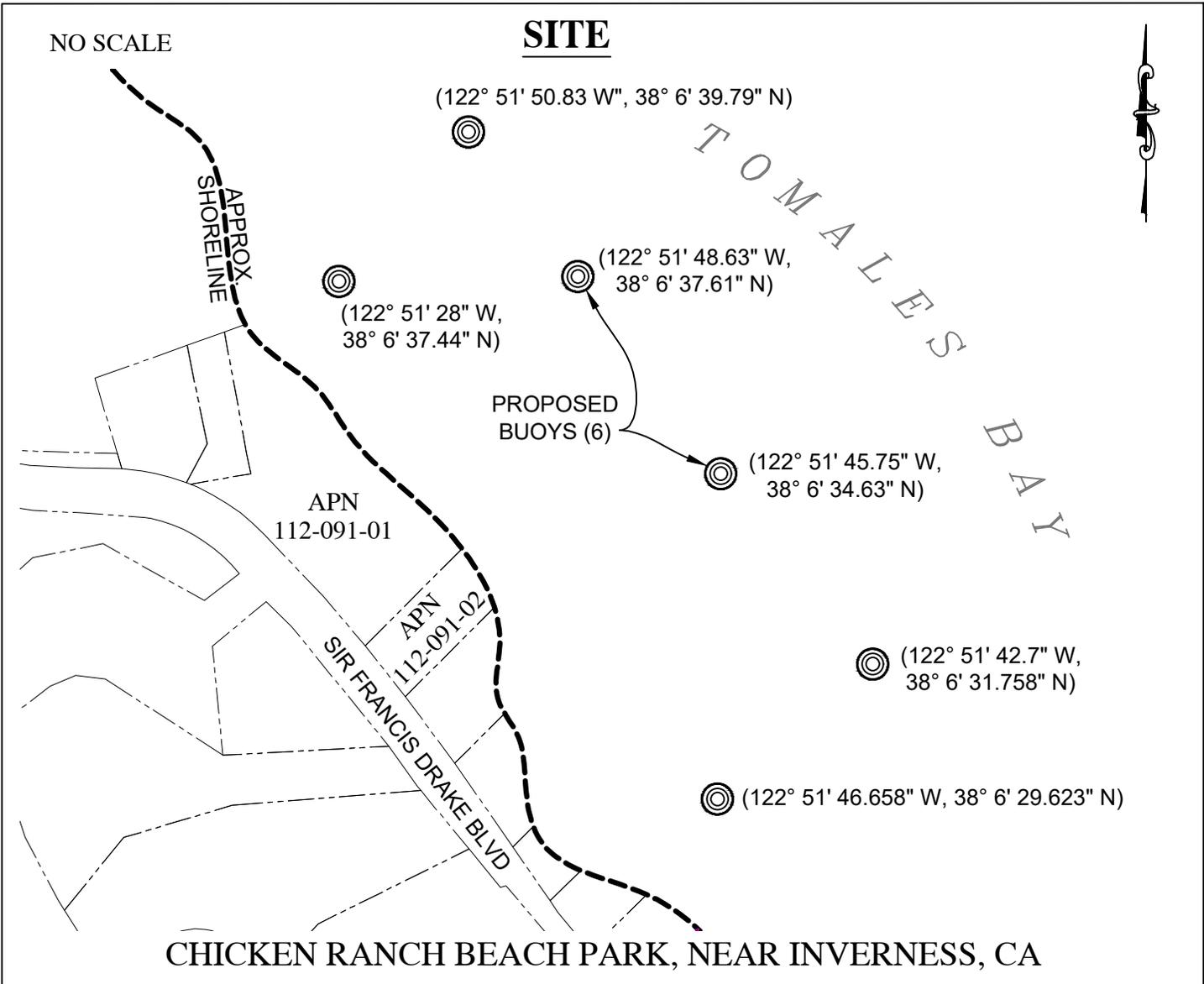


EXHIBIT A





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 27225
 COUNTY OF MARIN
 APNs 112-042-02, 04 & 112-091-01, 02, 04, 06, 08, 09, & 109-310-04
 GENERAL LEASE -
 PUBLIC AGENCY USE
 MARIN COUNTY

