

**CALENDAR ITEM  
C27**

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04/09/09  
WP 3607.9  
J. Smith

**TERMINATION OF RIGHT OF WAY EASEMENT  
AND PUBLIC AGENCY LEASE  
AND  
ISSUANCE OF A NEW  
GENERAL LEASE - PUBLIC AGENCY USE**

**APPLICANT:**

County of Santa Clara  
Parks and Recreation Department  
298 Garden Hill Drive  
Los Gatos, California 95032-7669

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

Sovereign lands in Alviso and Steamboat Sloughs, San Jose, Santa Clara County.

**AUTHORIZED USE:**

Construction, use and maintenance of a boat launch ramp and ancillary facilities, including rock riprap, a parking lot, public access roads, and wetland mitigation; dredging of approximately 7,000 cubic yards of material from Alviso Slough (2,000 cubic yards for initial construction and maintenance dredging of a maximum of 500 cubic yards annually for the first ten years) in conjunction with Phase 2 of the Alviso Marina County Park Project; dredged material to be reused onsite and/or disposed of at an upland landfill (Guadalupe Landfill) or other U.S. Army Corps of Engineers approved disposal site.

**LEASE TERM:**

25 years, beginning April 9, 2009.

**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. No monetary consideration will be charged for the dredged material as the project will result in a public benefit. The dredged material may not be sold.

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**SPECIFIC LEASE PROVISIONS:**

The Lease includes specific construction related provisions and requires the Lessee to comply with all applicable Federal, state and local regulations, current industry standards, and the Mitigation Monitoring Program for the project.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns and has the right to use the uplands adjoining the lease premises.
  
2. The Alviso Marina County Park is located in the city of San Jose on the northern edge of the community of Alviso in Santa Clara County. The site is bordered to the north by salt evaporation ponds and tidal flats that surround the southern edge of San Francisco Bay. Phase 1 of the marina improvements were constructed in 1997, and included expansion of existing parking and picnic areas, a boardwalk, observation decks, trail improvements, interpretive signage, and partial removal of the existing, defunct marina.

The County of Santa Clara, Parks and Recreation Department (County) proposes to construct Phase 2 of the Alviso Marina County Park Project, which involves the construction of a boat launch ramp with two boarding floats and ancillary facilities, including rock riprap, a parking lot, public access roads, and wetland mitigation on sovereign lands within Alviso and Steamboat Sloughs. The proposed launch ramp facility is part of the Alviso Marina County Park Master Plan.

The new boat launch ramp will be installed by poured-in-place and precast concrete methods. The launch ramp will include two boarding floats, one for motorized watercraft and the other for non-motorized watercraft. The floats will be prefabricated offsite and delivered to the project site. The boarding floats will be connected to the launch ramp by means of a concrete abutment. Precast, prestressed concrete guide piles would be used to hold the boarding floats in place. To protect the boat launch ramp from erosion, approximately 500 cubic yards of rock riprap will be installed along the shoreline on either side of the ramp.

The wetland mitigation component will include the removal of the remainder of an existing boat launch and wooden pier from the former marina basin to allow natural revegetation of the area, as well as the enhancement of on-site non-tidal, seasonal wetland to offset the project's impacts to wetlands.

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The construction of the boat launch ramp will require dredging of approximately 7,000 cubic yards of material from Alviso Slough (2,000 cubic yards for initial construction and maintenance dredging of a maximum of 500 cubic yards annually for the first ten years). The dredged material will be reused onsite and/or disposed of at an upland landfill (Guadalupe Landfill) or other U.S. Army Corps of Engineers approved disposal site.

3. The lease contains provisions that the Lessee must encourage the implementation of the Commission's "Best Management Practices for Guest Dock Users and Boaters", including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. Lessee shall post the BMPs for Guest Dock Users and Boaters" in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease and tri-annually thereafter, a report on compliance with all BMPs.
4. **Existing Leases:** On September 26, 1966, the Commission authorized the issuance of a 49-year Right of Way Easement Lease No. PRC 3607.9, to the County of Santa Clara for an access road within the historic bed of Steamboat Slough.

On October 27, 1966, the Commission authorized the issuance of a 15-year Public Agency Permit Lease No. PRC 3628.9, effective October 27, 1966, with three additional renewal options of ten years each, for a parking lot adjacent to Steamboat Slough.

As the County's project will include the areas covered by these two leases, staff is recommending that the Commission authorize termination of Lease No. PRC 3607.9 and Lease No. PRC 3628.9, and authorize the issuance of a new General Lease – Public Agency Use to the County of Santa Clara Department of Parks and Recreation for Phase 2 of the Alviso Marina County Park Project.

4. **Termination of Leases:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, Section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code Section 21065 and Title 14, California Code of Regulations, Sections 15060(c)(3) and 15378.

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5. **Issuance of New Lease:** An EIR and EIR Addendum were prepared for this project by the County of Santa Clara, Parks and Recreation Department. The EIR was certified on October 21, 1997, and the EIR Addendum was certified on March 3, 2009. The California State Lands Commission staff has reviewed such documents and the Mitigation Monitoring Program prepared in conformance with the provisions of the CEQA (Public Resources Code Section 21081.6) and adopted by the lead agency.

Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are contained on file in the Sacramento Office of the California State Lands Commission.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS OBTAINED:**

U.S. Fish and Wildlife Service.

**FURTHER APPROVALS REQUIRED:**

U. S. Army Corps of Engineers, San Francisco Regional Water Quality Control Board, San Francisco Bay Conservation and Development Commission, California Department of Fish and Game, Santa Clara Valley Water District.

**EXHIBITS:**

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

**PERMIT STREAMLINING ACT DEADLINE:**

September 1, 2009

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

**TERMINATION OF LEASES:** FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060

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(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

**ISSUANCE OF A NEW LEASE:**

FIND THAT AN EIR AND EIR ADDENDUM WERE PREPARED FOR THIS PROJECT BY COUNTY OF SANTA CLARA, PARKS AND RECREATION DEPARTMENT. THE EIR AND EIR ADDENDUM WERE CERTIFIED BY THE COUNTY OF SANTA CLARA. THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096(h), AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN THE EIR AND EIR ADDENDUM.

**SIGNIFICANT LANDS INVENTORY FINDING:**

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

**AUTHORIZATION:**

1. AUTHORIZE TERMINATION, EFFECTIVE APRIL 9, 2009, OF LEASE NO. PRC 3607.9 AND LEASE NO. PRC 3628.9, ISSUED TO THE COUNTY OF SANTA CLARA.
2. AUTHORIZE THE ISSUANCE OF A GENERAL LEASE - PUBLIC AGENCY USE TO COUNTY OF SANTA CLARA, PARKS AND RECREATION DEPARTMENT, BEGINNING APRIL 9, 2009, FOR A TERM OF 25 YEARS, FOR CONSTRUCTION, USE AND MAINTENANCE OF A BOAT LAUNCH RAMP AND ANCILLARY FACILITIES, INCLUDING ROCK RIPRAP, A PARKING LOT, PUBLIC ACCESS ROADS, WETLAND MITIGATION; AND DREDGING OF APPROXIMATELY 7,000 CUBIC YARDS OF MATERIAL FROM ALVISO SLOUGH (2,000 CUBIC YARDS FOR INITIAL CONSTRUCTION AND MAINTENANCE DREDGING OF A MAXIMUM OF 500 CUBIC YARDS ANNUALLY FOR THE FIRST TEN YEARS) IN CONJUNCTION WITH PHASE 2 OF THE ALVISO MARINA COUNTY

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PARK PROJECT; AS SHOWN ON EXHIBIT A (FOR REFERENCE PURPOSES ONLY) AND DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; DREDGED MATERIAL WILL BE REUSED ONSITE AND/OR DISPOSED OF AT AN UPLAND LANDFILL (GUADALUPE LANDFILL) OR OTHER U.S. ARMY CORPS OF ENGINEERS APPROVED DISPOSAL SITE; CONSIDERATION IS 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; NO MONETARY CONSIDERATION SHALL BE CHARGED FOR THE DREDGED MATERIAL AS THE PROJECT WILL RESULT IN A PUBLIC BENEFIT. THE DREDGED MATERIAL MAY NOT BE SOLD.