

**CALENDAR ITEM
C42**

A 73
S 36

04/05/16
PRC 8567.9
S. Kreutzburg

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of San Clemente

AREA, LAND TYPE, AND LOCATION:

Tide and submerged lands in the Pacific Ocean adjacent to North Beach and Linda Lane Beach, near the city of San Clemente, Orange County.

AUTHORIZED USE:

Deposition of a combined maximum of 200,000 cubic yards annually at two receiver sites: a maximum of 125,000 cubic yards of sand annually at North Beach, and a maximum of 75,000 cubic yards annually at Linda Lane Beach, under the City of San Clemente Opportunistic Beach Sand Replenishment Program.

LEASE TERM:

Five years, beginning April 5, 2016.

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.

STAFF ANALYSIS AND RECOMMENDATION:

Authorization:

Public Resources Code sections 6005, 6216, and 6301; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On June 28, 2010, the Commission authorized Lease No. PRC 8567.9 to the City, for the placement of a combined maximum of 300,000 cubic yards of beach quality sand annually at the following receiver sites within the city: a maximum of 125,000 cubic yards of sand annually at North Beach, a maximum of 75,000 cubic yards of sand annually at Linda Lane

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Beach, a maximum of 45,000 cubic yards of sand annually at T Street Beach North, and a maximum of 55,000 cubic yards of sand annually at T Street Beach South. The lease expired on October 31, 2014.

The City has submitted an application for a new General Lease – Public Agency Use for the continued implementation of the City's Opportunistic Beach Replenishment Program (Program) under the same parameters as the prior program, except for eliminating two receiver sites: T Street Beach North and T Street Beach South. The current Program would allow placement of up to a maximum of 125,000 cubic yards of sand annually at North Beach, and a maximum of 75,000 cubic yards annually at Linda Lane Beach for a combined maximum of 200,000 cubic yards of beach quality sand annually.

The existing City of San Clemente Opportunistic Beach Replenishment Program (Program) is intended to take advantage of opportunities to obtain suitable beach fill material generated from construction, development, or dredging projects occurring periodically within the city. Under the Program, the City identifies potential beach fill material, which is tested according to current regulatory requirements to confirm its suitability. A Project Notification Report detailing such findings is then submitted to the Commission and each agency with approval authority over the project a minimum of 30 days prior to any placement activity. No replenishment activity is to take place until staff of each agency, including the Commission, has provided written concurrence that the material meets the criteria for placement.

The Program, as its name implies, seeks opportunities to deposit sand on public beaches. There is no guarantee additional sand will be placed, but the proposed lease allows the opportunity to do so if the situation presents itself. If additional sand is deposited, it can maintain or expand the size of the public beach thereby enhancing recreation and supporting increased public access to the surrounding region. There is a public access trail along the beach in the North Beach area, in addition to a concession/public restroom building. There is a Marine Safety Building at the Linda Lane Beach area, which also is adjoined to the public access trail. These facilities promote the public's recreational opportunities along the beaches, where the replenishment of sand is needed due to a declining natural sand supply by erosion from rising sea levels. Commission staff believes this use of public land, by a public agency, for a public benefit is consistent with the common law public trust doctrine.

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The proposed lease does not substantially interfere with public trust uses. Furthermore, the lease is for a limited five-year term and there is testing required to ensure that the material placed is suitable beach fill. As part of the lease, a mean high tide line survey must be conducted prior to the initial placement of sand. This provides the Commission with evidence of the location of the mean high tide line at one point in time prior to the beach nourishment.

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION

1. The City of San Clemente (City) owns or has the right to use the uplands adjoining the lease premises.
2. The proposed action is consistent with Strategy 1.3 of the Commission's Strategic Plan to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. A Mitigated Negative Declaration, State Clearinghouse No. 2002081044, and Mitigation Monitoring Program were prepared by the City and adopted on October 7, 2003, for this project. Commission staff has reviewed such document and Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

As part of the Commission's approval of the project on October 6, 2004, and June 28, 2010, the project relied on the same environmental document, and the Commission adopted the Mitigation Monitoring Program, as contained in Exhibit C of Calendar Item 35 at the October 6, 2004, Commission meeting (http://archives.slc.ca.gov/Meeting_Summaries/2004_Documents/10-06-04/Items/100604C35.pdf).

Commission staff reviewed the proposed change to the City's Opportunistic Beach Replenishment Program to eliminate two receiver sites and determined that this does not involve any "substantial changes" or "new information of substantial importance" resulting in any new or substantially more severe significant impacts, and thus no additional CEQA analysis is required as specified in Public Resources Code section 21166 and section 15162, subdivision (a) of the State CEQA Guidelines.

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4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. 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:

City of San Clemente
U.S. Army Corps of Engineers

FURTHER APPROVALS REQUIRED:

California Coastal Commission and Santa Ana Regional Water Quality Control Board

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2002081044, was prepared by the city of San Clemente and adopted on October 7, 2003, for this Project and that the Commission has reviewed and considered the information contained therein.

Find that in its independent judgment, none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

Re-adopt the Mitigation Monitoring Program, as contained on file in the Sacramento office of the California State Lands Commission as Exhibit C to Calendar Item 35 from the October 6, 2004 Commission meeting.

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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 section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the City of San Clemente beginning April 5, 2016, for a term of five years, for the deposition of a combined maximum of 200,000 cubic yards of sand annually at two receiver sites: a maximum of 125,000 cubic yards of sand annually at North Beach, and a maximum of 75,000 cubic yards annually at Linda Lane Beach, under the City of San Clemente Opportunistic Beach Replenishment Program, as described in Exhibit A (for reference purposes only) and shown on Exhibit B attached and by this reference made a part hereof; 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 interests.

EXHIBIT A

PRC 8567.9

LAND DESCRIPTION

Two (2) parcels of land situated in the City of San Clemente, County of Orange, State of California described as follows:

PARCEL 1 – (North Beach Fill Site)

A 280 feet wide parcel of tide and submerged land in the Pacific Ocean lying adjacent to Tract 981 recorded in Book 31 of Miscellaneous Map Page 26, and Tract 793 recorded in Book 24 of Miscellaneous Map Page 1, Orange County Recorders Office, said parcel being bounded on the Northeast by the ordinary high water mark of said ocean; bounded on the Southeast by the prolongation of the most southwesterly line of the northwesterly right of way line of Dije Court; bounded on the Southwest by a line lying 280 feet southwesterly of and parallel with said ordinary high water mark; and bounded on the Northwest by the prolongation of the northwesterly line of Lot 17 of said Tract 981.

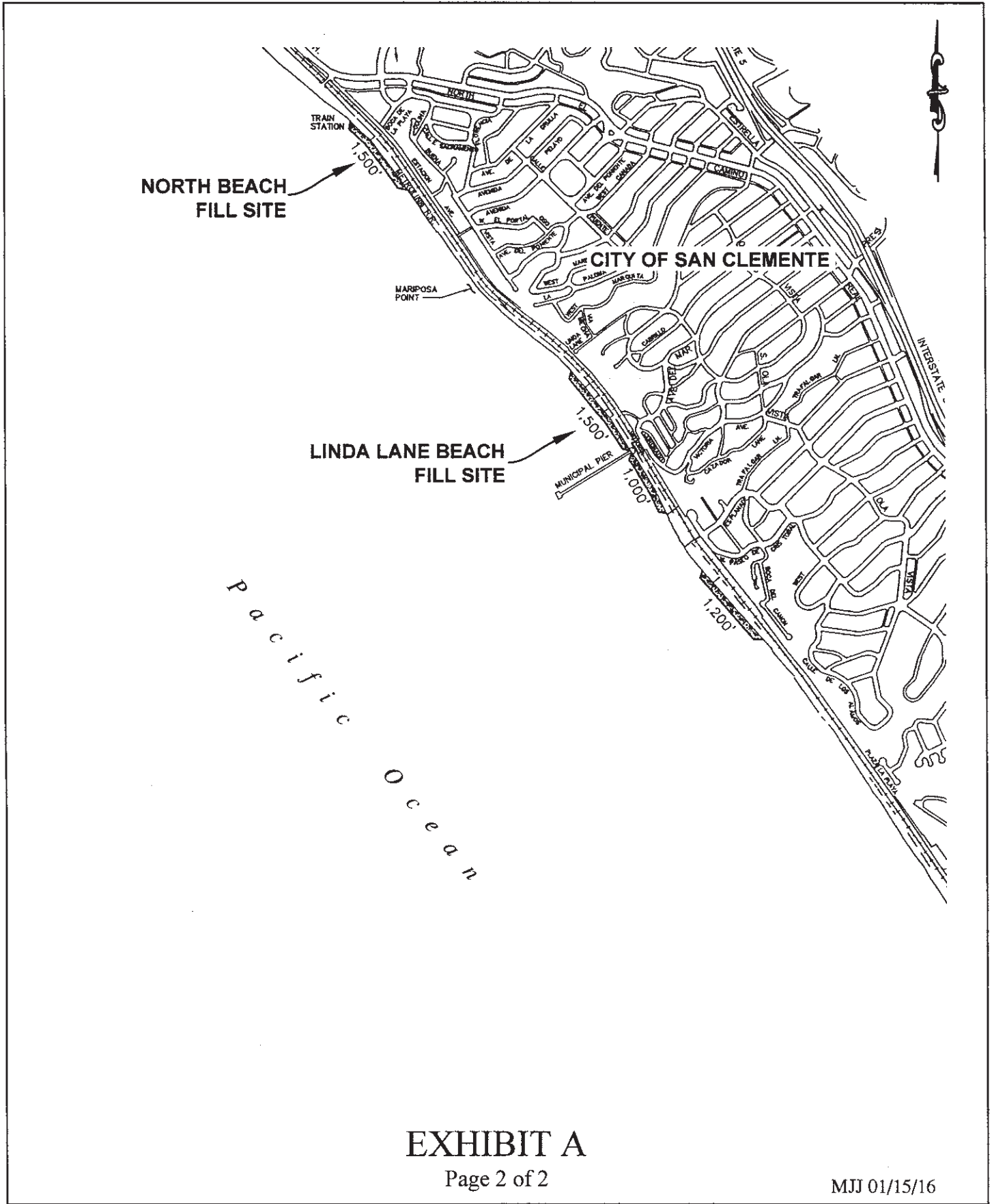
PARCEL 2 – (Linda Lane Beach Fill Site)

A 240 feet wide parcel of tide and submerged land in the Pacific Ocean lying adjacent to Tract 779 recorded in Book 23 of Miscellaneous Map Page 19, Orange County Recorders Office, said parcel being bounded on the Northeast by the ordinary high water mark of said ocean; bounded on the Southeast by a line 85 feet northwesterly of and parallel with the centerline of the City of San Clemente Public Pier; bounded on the South west by a line lying 240 feet southwesterly of and parallel with said ordinary high water mark; and bounded on the Northwest by a line lying more or less 1500 feet northwesterly of and parallel with above described Southeast line of the herein described parcel.

END OF DESCRIPTION

Prepared January 15, 2016 by the California State Lands Commission Boundary Unit





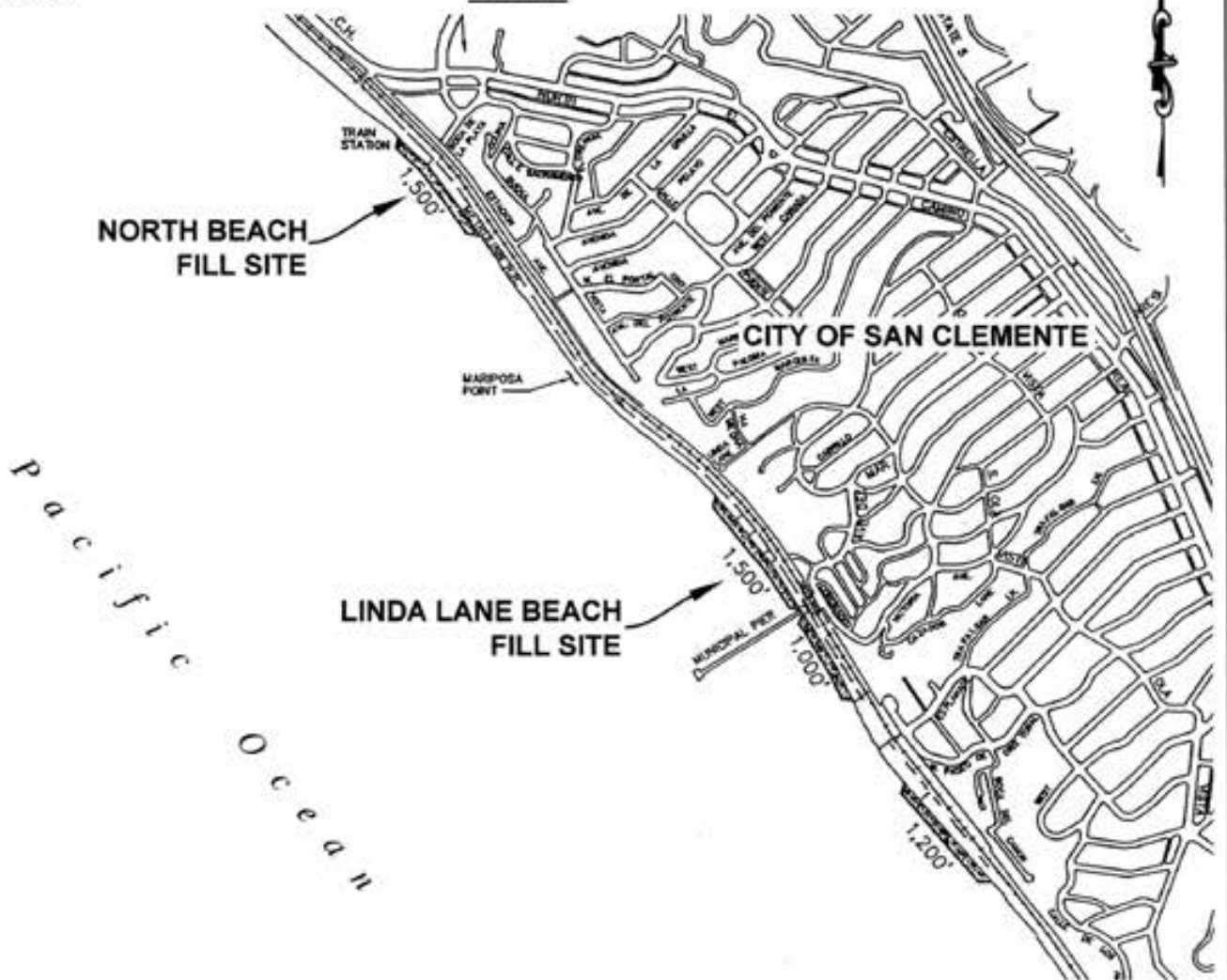
LAND DESCRIPTION PLAT
 PRC 8567.9, CITY OF SAN CLEMENTE
 ORANGE COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



SAN CLEMENTE OPPORTUNISTIC BEACH REPLENISHMENT PROGRAM

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8567.9
 CITY OF SAN CLEMENTE
 GENERAL LEASE -
 PUBLIC AGENCY
 SAN CLEMENTE BEACH
 ORANGE 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.

MJJ 01/15/16