

**CALENDAR ITEM
C65**

A 72
S 34

06/28/16
PRC 8685.9
S. Kreutzburg

GENERAL LEASE – OTHER

APPLICANT:

Bolsa Chica Conservancy
3842 Warner Avenue
Huntington Beach, CA 92649-4263

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

6.12 acres, more or less, of sovereign land in the Bolsa Chica Lowlands, adjacent to the city of Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of the existing Bolsa Chica Interpretive Center and other related activities associated with the Center's programs.

LEASE TERM:

15 years, beginning June 26, 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.

SPECIFIC LEASE PROVISIONS:

Insurance:

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

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Public Trust and State's Best Interests Analysis:

The Bolsa Chica Conservancy (Conservancy) is a non-profit, non-political organization of community members representing science, business, education, and government, established to ensure the preservation, restoration, and enhancement of the Bolsa Chica Ecological Reserve through public outreach, participation, education, and leadership.

The lease authorizes the use and maintenance of an existing 1,440 square foot pre-fabricated modular building housing an interpretive nature center that supports a variety of educational, volunteer, and restoration activities in the Bolsa Chica Wetlands and Outer Bolsa Bay. The Conservancy has been operating the interpretive center since 1994, initially under an agreement with the California Department of Fish and Game (now the Department of Fish and Wildlife), and since June 2006 under lease from the Commission. The Conservancy has submitted a lease application to the Commission to continue the use and maintenance of the Interpretive Center and for associated activities that provide information, educational displays, classes, tours, research, clean-up, and trail maintenance and restoration efforts.

Lands under the jurisdiction of the Commission in the Bolsa Chica Lowlands include roughly 1,200 acres of wildlife habitat. The Commission, acting in its capacity as the Kapiloff Land Bank Trustee, acquired approximately 950 acres for the Bolsa Chica Lowlands Restoration Project between 1997 and 2005. Restoration construction was largely complete by 2006, culminating in the reopening of an ocean tidal inlet allowing seawater to enter the area after a nearly 100-year absence. Lands under the jurisdiction of the Commission at Bolsa Chica are leased to the Department of Fish and Wildlife and are included in the Bolsa Chica Ecological Reserve.

Public trust uses are generally limited to those that are water dependent or related, and include commerce, navigation, fisheries, environmental preservation and recreation. Public trust lands may also be kept in their natural state for habitat, wildlife refuges, scientific study or open space. Ancillary or incidental use that directly promotes public trust uses, are directly supportive and necessary for trust uses, or that accommodate the public's enjoyment of trust lands, are also permitted. The use of the Interpretive Center is consistent with the common law Public Trust Doctrine as it supports and facilitates public access and the public's enjoyment of and education about the Bolsa Chica Ecological Reserve.

The subject facilities have existed for many years at this location. The

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facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Based on the foregoing, Commission staff believes that the use and maintenance of the Interpretive Center is consistent with the common law Public Trust Doctrine.

The lease includes certain provisions protecting the public use of the proposed lease area by requiring the Lessee to obtain all necessary permits, a nonexclusive use provision, and a reservation to the people of the State of an access easement to and from the lease area. The lease also requires the Lessee to conduct all repair and maintenance work. The lease has a limited term of 15 years, which allows the Commission flexibility if it determines that the public trust needs of the area change over time.

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. Applicant has permission to use the lands adjoining the lease premises.
2. This proposed action is consistent with Strategy 1.3, to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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.

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.

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APPROVALS OBTAINED:

California Coastal Commission, California Department of Fish and Wildlife

EXHIBITS:

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

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 interfere with the public trust needs and values at this location at this time, is consistent with the common law public trust doctrine, and is in the best interests of the State.

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 – Other to the Bolsa Chica Conservancy beginning June 26, 2016, for a term of 15 years, for the use and maintenance of an Interpretive Center, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be 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; and liability insurance coverage in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8685.9

LAND DESCRIPTION

Two parcels of sovereign land situated in the unincorporated territory of the County of Orange, State of California described as Part 1 and Part 2 in Exhibit 1 of that certain corporation quitclaim deed recorded August 17, 1973 from Signal Bolsa Corporation to the State of California, recorded in Book 10855 Official Records Page 531, Orange County Records.

END OF DESCRIPTION



NO SCALE

SITE



*BLDG=1440 SQ.FT. PRE-FABRICATED MODULAR BUILDING 12' IN HEIGHT USED AS AN INTERPRETIVE NATURE CENTER

**ALL STRUCTURES SHOWN ARE EXISTING

3842 Warner Ave., Huntington Beach

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 8685.9
BOLSA CHICA
CONSERVANCY
GENERAL LEASE
OTHER USE
ORANGE COUNTY



MJF 5/19/16