

**CALENDAR ITEM
C69**

A 72
S 34

06/28/16
PRC 3248.1
S. Kreutzburg

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Jerome F. Lindsay Sr., and Amber J. Lindsay, as Trustees of The Jerome Lindsay Sr., and Amber Lindsay 2010 Trust, dated November 10, 2010

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 3502 Gilbert Drive, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, access ramp, and cantilevered deck extending no more than five feet waterward of the bulkhead.

LEASE TERM:

10 years, beginning June 28, 2016.

CONSIDERATION:

\$1,629 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5). The subject facilities,

CALENDAR ITEM NO. C69 (CONT'D)

consisting of a boat dock, access ramp and cantilevered deck, are privately owned and maintained and located within the Midway Channel. The boat dock and access ramp facilitate recreational boating because they are used for the docking and mooring of recreational boats.

The Midway Channel in Huntington Harbour was created in the early 1960s and the adjacent upland parcel is privately owned and developed with a residence. There is no public access at this upland property because the private upland property directly abuts the concrete bulkhead that defines the limits of the channel. The boat dock extends to the pierhead line which is 60 feet into the 200 foot wide channel leaving the majority of the Midway Channel available for navigation and public recreation. The cantilevered deck extends no more than five feet over the Midway Channel, and does not substantially interfere with the public right of navigation or access.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

The proposed lease 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. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission 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. Applicant owns the upland adjoining the lease premises.
2. On September 9, 1993, the Commission authorized a 10-year Recreational Pier Lease to Jerome F. Lindsay Sr., and Amber J. Lindsay. That lease expired on September 8, 2003.
3. On March 5, 2015, ownership of the upland parcel transferred to Jerome F. Lindsay, Sr. and Amber J. Lindsay, as Trustees of The Jerome Lindsay

CALENDAR ITEM NO. **C69** (CONT'D)

Sr., and Amber Lindsay 2010 Trust, dated November 10, 2010. The Applicant is now applying for a General Lease – Recreational Use.

4. 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.
5. The 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.

6. 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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that 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 public trust needs

CALENDAR ITEM NO. **C69** (CONT'D)

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 – Recreational Use, to Jerome F. Lindsay Sr., and Amber J. Lindsay, as Trustees of The Jerome Lindsay Sr., and Amber Lindsay 2010 Trust, dated November 10, 2010, beginning June 28, 2016, for a term of 10 years, for the use and maintenance of an existing boat dock, access ramp, and cantilevered deck extending no more than five feet waterward of the bulkhead, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration in the amount of \$1,629 per year with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3248.1

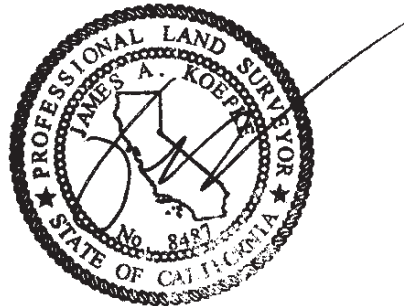
LAND DESCRIPTION

A parcel of submerged land in Huntington Harbour, in the City of Huntington Beach, Orange County, California, described as follows:

Beginning at the most easterly corner of Lot 24, as said lot is shown and so designated on that certain map of Tract No.4677 filed in Book 168, Pages 14 through 18 of Miscellaneous Maps, Official Records of said County; thence along the southeasterly extension of the northeasterly line of said lot 40.00 feet to a line parallel with the southeasterly line of said lot; thence southwesterly 60 feet to the southeasterly extension of the southwesterly line of said lot; thence northwesterly 40.00 feet along said southeasterly extension to the most southerly corner of said lot; thence northeasterly on the southeasterly line of said lot to the point to beginning.

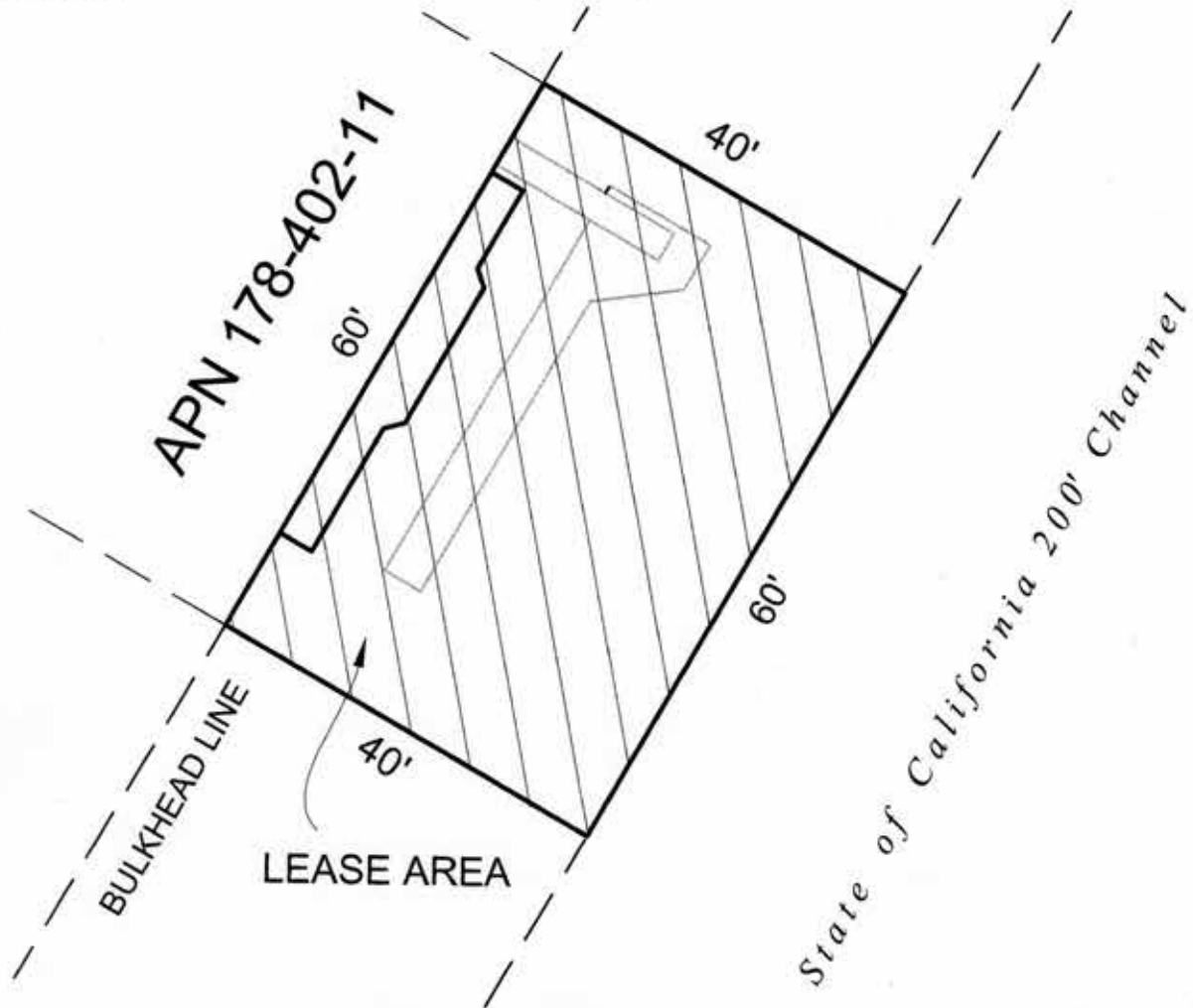
END OF DESCRIPTION

Prepared 4/08/2016 by the California State Land Commission Boundary Unit



NO SCALE

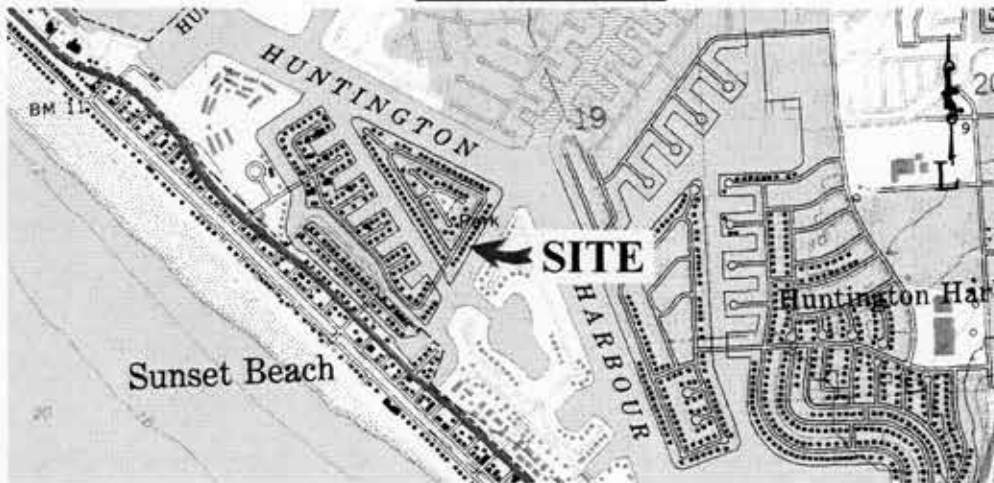
SITE



3502 GILBERT DRIVE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3248.1
 LINDSAY TRUST
 APN 178-402-11
 GENERAL LEASE -
 RECREATIONAL USE
 ORANGE COUNTY



MJJ 4/9/16

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.