

**CALENDAR ITEM
C41**

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S 16

12/06/16
PRC 9209.1
R. Collins

AMENDMENT OF LEASE

LESSEE:

Erik J. Gamm and Valarie S. Gamm

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Colorado River, adjacent to 1206 Beach Drive, city of Needles, San Bernardino County.

AUTHORIZED USE:

Use and maintenance of an existing concrete patio, landing, stairway, and riprap bankline.

LEASE TERM:

10 years, beginning April 23, 2015.

CONSIDERATION:

Concrete Patio and Landing: Annual rent in the amount of \$125 per year, with an annual Consumer Price Index adjustment.

Concrete Stairway and Riprap Bankline: Public benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the State's best interests.

PROPOSED AMENDMENT:

Amend the Lease to:

1. Allow for the construction, use, and maintenance of an aluminum gangway with railing and a floating walkway and boat dock with a railing on the southeasterly side of the walkway and boat dock;
2. Construction must begin by June 1, 2018 and be completed by December 31, 2018;

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3. Prohibit the mooring of all watercraft on the southeasterly side of the walkway and boat dock;
4. Revise the annual rent from \$125 to \$189 per year to include the new improvements, effective April 23, 2017;
5. Include Special Provisions related to the construction of the improvements; and
6. Replace Exhibits A and B with new Exhibit A, Land Description, and Exhibit B, Site and Location Map.

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On April 23, 2015, the Commission authorized a General Lease – Recreational and Protective Structure Use to Kami M. Erickson and Michael R. Carter for a concrete patio and landing, concrete stairway, and riprap bankline on the Colorado River in the Rio Buena Vista (RBV) community in the City of Needles ([Calendar Item C77, April 23, 2015](#)). On June 28, 2016, the Commission authorized the assignment of the lease to Erik J. Gamm and Valarie S. Gamm ([Calendar Item C60, June 28, 2016](#)). That lease will expire on April 22, 2025. The Applicant has applied to amend the lease to allow for the construction of an aluminum gangway with railing and a floating walkway and boat dock.

The change in rent is attributable to the addition of the proposed improvements. Rent is associated with the gangway, floating walkway, boat dock, concrete patio, and landing. The riprap bankline protection provides a public benefit and will not be subject to rent. The concrete stairway while providing access to the gangway and boat dock also provides public access to the Colorado River and will not be charged rent. This is consistent with the terms of other similarly situated leases in the

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community. The revision of rent will not result in a change in the use of Public Trust resources at this time and at this location.

Prior to the authorization of this lease, numerous comments had been received following the issuance of boat dock leases in the RBV community. On August 14, 2012, the Commission suspended leasing activity for new boat docks and directed staff to conduct an analysis of the Public Trust needs in the area and report back to the Commission ([Calendar Item C64, August 14, 2012](#)). In October 2012, Commission staff visited the site, held a public meeting in the RBV community, and took comments on issues of importance from the owners and residents.

At the December 5, 2012 Commission meeting, staff presented its report on the Public Trust needs ([Calendar Item 85, December 5, 2012](#)). The report recognized the existence of two sandy beaches that are used extensively throughout the year by both riverfront and inland residents of the community, as well as members of the public. The report also indicated that if boat docks were authorized for all beachfront owners, the Public Trust needs, values and uses of the recognized beach areas would be significantly impacted. The Commission authorized staff to resume processing applications for boat docks in the RBV community on a case-by-case basis consistent with the Commission's practices on leasing on inland waterways and the Public Trust needs identified in the area.

The subject property lies adjacent to and outside the projection lines of one of the recognized beach areas in the RBV community. The Applicant has agreed to move the proposed boat dock downstream and locate it on the projected property line of the lot to the southeast. This places the boat dock farther away from the sandy beach and provides additional protection to the Public Trust needs and uses of the area. To guard against encroachment downstream, staff recommends the Commission require a railing and prohibit the mooring of watercraft on the southeasterly side of the walkway and boat dock.

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 (Public Resources Code, section 6503.5). The proposed improvements facilitate recreational boating because they are used for the docking and mooring of recreational boats.

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The lease includes certain 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 proposed improvements would not significantly alter the land, 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. Based on the foregoing, Commission staff believes that the gangway, floating walkway, and boat dock would not substantially interfere with Public Trust needs, at this location, at this time, or for the foreseeable term of the lease.

The 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 occupation of the public land involved. For all the reasons above, Commission staff believes the authorization of this lease amendment is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The proposed 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 construction of a gangway, floating walkway, and boat dock is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. 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 staff's consultation with the persons nominating such lands and through

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the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

FURTHER APPROVALS REQUIRED:

U.S. Bureau of Reclamation
U.S. Army Corps of Engineers
California Department of Fish and Wildlife

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the construction of a gangway, floating walkway, and boat dock 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 of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment will not substantially interfere with public rights to navigation and fishing or 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 the amendment of Lease No. PRC 9209.1, a General Lease – Recreational and Protective Structure Use, to allow the construction, use, and maintenance of an aluminum gangway with railing and a floating walkway and boat dock with a railing on the southeasterly side of the walkway and boat dock; to prohibit the mooring of all watercraft on the southeasterly side of the walkway and boat dock; to include Special

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Provisions related to the construction of boat docks; to revise the rent from \$125 to \$189, effective April 23, 2017; and to replace the existing Exhibit A and Exhibit B with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 9209.1

LAND DESCRIPTION

Two parcels of State owned land adjacent to Lot 12 of Tract No. 15640 as shown on Tract Map recorded in Book 261, Pages 88 through 94, inclusive of Maps, in the Office of the County Recorder of San Bernardino County, lying in the bed of the Colorado River, County of San Bernardino, State of California, described as follows:

PARCEL 1

BEGINNING at the easterly corner of said Lot 12; thence northwesterly along the northeasterly line of said lot, said line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, N 55° 01' 49" W 45.02 feet to the northerly corner of said lot; thence leaving said northeasterly line and said Agreed Boundary Line, along the northeasterly prolongation of the northwesterly line of said lot N 33° 18' 50" E 60.00 feet; thence S 55° 01' 49" E 45.02 feet to the intersection with the northeasterly prolongation of the southeasterly line of said lot; thence southwesterly along said northeasterly prolongation S 33° 18' 50' W 60.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying waterward of the toe of revetment adjacent to said Lot 12.

PARCEL 2

BEGINNING at the easterly corner of said Lot 12; thence northwesterly along the northeasterly line of said lot, said line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, N 55° 01' 49" W 34.01 feet; thence leaving said northeasterly line and said Agreed Boundary Line N 33° 18' 50" E 97.00 feet; thence S 55° 01' 49" E 34.01 feet to the intersection with the northeasterly prolongation of the southeasterly line of said lot; thence southwesterly along said northeasterly prolongation S 33° 18' 50' W 97.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying within above described PARCEL 1.

END OF DESCRIPTION

This description is based on Applicant provided design drawings for a proposed floating boat dock, gangway, walkway together with any and all appurtenances pertaining thereto, to build at a later date within the Lease time frame. This description is to be updated once as-built plans are submitted.

Prepared 09/01/16 by the California State Lands Commission Boundary Unit



NO SCALE

SITE

LEASE PARCEL 2

(PROPOSED GANGWAY WITH RAILING, FLOATING WALKWAY, FLOATING BOAT DOCK AND 9' IMPACT AREA)

LEASE PARCEL 1

(EXISTING RIPRAP BANKLINE, CONCRETE PATIO, STAIRWAY AND LANDING)

APPROXIMATE TOP OF REVETMENT

AGREED BOUNDARY LINE

COLORADO RIVER

APPROXIMATE TOE OF REVETMENT

PUBLIC PEDESTRIAN ACCESS EASEMENT

APN 0186-273-11

1206 BEACH DRIVE, NEEDLES

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 9209.1

GAMM

APN 0186-273-11

GENERAL LEASE -

RECREATIONAL AND

PROTECTIVE STRUCTURE USE
SAN BERNARDINO COUNTY



TS 09/01/16