

**CALENDAR ITEM  
C48**

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PRC 5617.9  
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**GENERAL LEASE – PUBLIC AGENCY USE**

**APPLICANT:**

East Bay Regional Park District

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

A 2.95-acre parcel, more or less, of tide and submerged land in San Francisco Bay at Point Richmond, in Richmond, Contra Costa County.

*AUTHORIZED USE:*

Continued use and maintenance of the Ferry Point Pier.

*LEASE TERM:*

15 years, beginning January 30, 2017.

*CONSIDERATION:*

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:*

1. Lessee shall provide records of timing and duration of park and trail closures as a result of flooding that impedes access to the lease area.
2. Lessee agrees to comply with City of Richmond's Climate Action Plan.
3. Lessee shall provide a copy of East Bay Regional Park District's updated FEMA Local Hazard Mitigation Plans, scheduled to occur in 2017.

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**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

**Public Trust and State's Best Interests Analysis:**

On November 9, 1993, the Commission accepted a quitclaim deed from Atchison, Topeka, and Santa Fe Railway Company and issued a General Lease – Public Agency Use to East Bay Regional Park District (EBRPD) ([Calendar Item C01, November 9, 1993](#)). On October 28, 1996, the Commission authorized a lease amendment to EBRPD to rehabilitate the Ferry Point Pier and provide public access and recreational use ([Calendar Item C27, October 28, 1996](#)). That lease expired on January 29, 2017.

The Applicant is now applying for a General Lease – Public Agency Use for the continued use and maintenance of the Ferry Point Pier near Richmond. The rehabilitated Pier is part of the 307-acre Miller/Knox Regional Shoreline in Richmond. The Pier provides public recreational fishing along with signage interpreting the historical resources unique to Ferry Point, especially the land-sea transfer of freight cars from the transcontinental railroad network to the international shipping wharves of the Port of San Francisco.

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

The proposed lease includes certain provisions protecting the public use of the proposed lease areas, including a limited lease term of 15 years. The proposed lease also requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

**Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in the San Francisco Bay, near Richmond, which is a tidally influenced site vulnerable to flooding at current sea levels. This area will also be at higher risk of flood exposure given projected scenarios of sea-level rise: the region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events.

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In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding and storms (especially when coupled with sea-level rise). In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris.

The combination of these projected conditions increases the likelihood of damage to structures within the lease premises during the term of the lease. Improvements to the lease area consist of the rehabilitated Ferry Point Pier and the historic pier structures, both visible and submerged, that lie within the lease area as described in Exhibit A and shown on Exhibit B. The rehabilitated pier project was completed in 2002 and is in good condition. The remaining lease area is not available to the public, and contains the remaining burned and dilapidated Santa Fe Ferry Terminal structures that were destroyed by fire in 1984. The fixed components of the rehabilitated pier and the historic structures could all be susceptible to damage from rising seas and flooding events.

The rehabilitated pier has sufficient clearance to avoid overtopping from current storm events, but may require more frequent maintenance to ensure continued function during and after future storm seasons. In addition, the access roads to the pier may experience periodic or continuous inundation with rising water levels and more frequent flooding or king tides, creating a public safety hazard. Storm and tide conditions could dislodge, move, or damage the submerged historic pier structures, which are already in a state of disrepair, leading to public safety and navigation hazards. Finally, increased flooding and erosion could require additional or reinforced shoreline protection beyond what already exists. This could result in the construction of armoring structures on State Lands.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement of the pier. The historic structures are being preserved in accordance with the Secretary of the Interior's Standards for potential nomination to the National Register of Historic Places, and it is unknown whether any actions will be taken to stabilize the submerged components. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent access area may be subject to effects of climate change, including sea-level rise.

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**Conclusion:**

For all the reasons above, Commission staff believes the proposed lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. 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.
2. 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 14, section 15301.

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

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 the CEQA review process, it is 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 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 14, section 15301.

**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 or for the foreseeable

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term of the lease, is consistent with the common law Public Trust Doctrine, and is in the State's best interests.

**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 East Bay Regional Park District beginning January 30, 2017, for a term of 15 years, for the use and maintenance of the Ferry Point Pier as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

EXHIBIT "A"

A parcel of land in the County of Contra Costa, State of California, being a portion of the lands of said State in the Bay of San Francisco, described as follows:

Commencing at station 347 in the exterior boundary of San Pablo Rancho as said Rancho is shown on map accompanying and forming a part of the Final Report of the Referees in Partition, filed on March 1, 1894, in the offices of the County Recorder of said County; thence South  $64^{\circ}12'46''$  West (bearing based on California State Coordinate System, Zone III) 967.35 feet to Point No. 8 in the official bulkhead line; thence North  $32^{\circ}31'23''$  West along said bulkhead line, 122.08 feet to THE TRUE POINT OF BEGINNING for the parcel herein described; thence South  $39^{\circ}42'27''$  West, 457.00 feet; thence South  $84^{\circ}41'38''$  West 336.19 feet; thence North  $33^{\circ}53'38''$  West, 70.82 feet; thence North  $53^{\circ}27'22''$  East, 672.66 feet; thence South  $39^{\circ}00'13''$  East, 33.56 feet; thence North  $51^{\circ}24'44''$  East, 61.41 feet to a point in said bulkhead line; thence South  $32^{\circ}31'23''$  East along said bulkhead line, 105.41 feet to point of beginning.

Said parcel contains an area of 2.952 acres, more or less.

**END OF DESCRIPTION**

The above description is based on that original description found in PRC 5617.



