

**STAFF REPORT
C69**

A 78
S 39

10/19/17
PRC 7789.1
R. Collins

**TERMINATION AND ISSUANCE OF A
GENERAL LEASE – PROTECTIVE STRUCTURE USE**

LESSEE/APPLICANT:

David Jay Winkler and Sherry Lynn Winkler, Trustees of the Winkler Trust Dated June 5, 1991

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

484 square feet of sovereign land in the Pacific Ocean, adjacent to 521 Pacific Avenue, in the city of Solana Beach, San Diego County.

AUTHORIZED USE:

Use and maintenance of a 31-foot-long by 23-foot-high seawall and various sea cave/notch fills, a 4-foot-high extension to the existing seawall, a 55-foot-long by 27-foot-high seawall extension, a 15-foot-long section of concrete infill to the north, a 7-foot-long by 27-foot-high seawall extension, and a 7-foot-long concrete wave deflector to the south of the existing seawall; and construction, use and maintenance of a 32-foot-high tied-back shotcrete seawall with wave deflector and an architecturally treated finish.

LEASE TERM:

10 years, beginning October 1, 2017.

CONSIDERATION:

\$3,794 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, 6321, 6321.2, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

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Public Trust and State's Best Interests Analysis:

Lessee owns a single family residence situated on a bluff-top lot located at 521 Pacific Avenue in the city of Solana Beach adjacent to the Pacific Ocean. The character of the geology along this section of coastline causes the bluffs to be susceptible to periodic bluff failures. Bluff failures are typically caused by a combination of factors, including wave action, eroding the sandstone formations at the base of the bluffs, and wind and rain which erodes looser, less cohesive layers of material above the sandstone.

In 1993, the California Coastal Commission (CCC) approved the construction of a 31-foot long by 23-foot-high seawall under Coastal Development Permit (CDP) 6-92-212/Wood to protect the upland property from further erosion due to a collapsed sea cave. In 1998, the CCC approved an emergency permit, CDP 6-97-166-G/Wood, to place rock riprap seaward of the constructed seawall to prevent waves from overtopping the structure and to protect the ends of the seawall from becoming exposed due to erosion from concentrated wave action. In 2008 and 2009, the City of Solano Beach (City) and the CCC authorized removal of the riprap and modifications to the seawall. (See City Resolution No. 2008-157 CUP #17-08-05; CCC CDP #6-08-122.)

In October 2009, the Commission authorized Lease No. PRC 7789.1 ([Item C27, October 22, 2009](#)), a General Lease – Protective Structure Use to Lessee for the retention of existing shoreline protective structures, and for the construction of a new seawall to span the Lessee's northern property boundary and extend onto the neighboring property at 523-525 Pacific Avenue (APN 263-041-24). The extension of the seawall by Lessee onto the neighboring property was constructed with the permission of the adjacent property owner, and memorialized in a Consent, Indemnity and License Agreement, dated November 24, 2009. The seawall was designed to prevent erosion and undercutting of the end of the seawall, which helps protect the Lessee's upland residence. The lease will expire on September 30, 2019.

On October 14, 2014, the Commission authorized an amendment ([Item C74, October 14, 2014](#)) to Lease No. PRC 7789.1 to revise the lease premises to 0.0009 acre to reflect the current encroachment based on as-built seawall plans.

On February 9, 2017, the CCC authorized CDP 6-16-0281 to construct an approximately 140-foot-long by 32-feet-high, 30-inch-thick, lower coastal bluff tied-back, reinforced, textured shotcrete seawall at the base of the

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bluff adjacent to 517 and 521 Pacific Avenue with a condition requiring the natural bluff headland be retained adjacent to 521 Pacific Avenue and that the seaward portion of the headland be encased by the proposed seawall. The Applicant's agent has provided a survey showing the most recent location of the mean high tide line to be coincident with the toe of the bluff.

The current lease expires in 2 years and the Lessee requests the Commission terminate Lease No. PRC 7789.1 effective upon execution of a new lease and has applied for a new General Lease – Protective Structure Use to construct a 140-foot-long, 32-foot-high, 30-inch-thick lower coastal bluff tied-back shotcrete seawall on the beach and bluff adjacent to 521 Pacific Avenue (Lessee's property) and 517 Pacific Avenue, which is the subject of a similar application for a lease from the Commission (PRC 8247.1). Based on the information available to staff, the proposed seawall on the bluff face adjacent to 521 Pacific Avenue would occupy 484 square feet of sovereign land.

The proposed lease is for a seawall located at the base of the bluff to protect against bluff failure and protect the home on top of the bluff. Many seawalls and sea cave infills exist along the bluff in Solana Beach. These seawalls also provide for the health and safety of the public by protecting them from bluff failure while recreating on the beach.

Adverse effects related to protective structures in Solana Beach include increased beach erosion, interference with natural sand supply, loss of public beach, and potential impacts on flora and fauna as a result of encroachment by these protective structures into the beach environment. Tide Beach Park, one of the City's primary beach parks and access ways, is located south of the subject site. Various beach nourishment programs have been conducted by city and regional governing bodies, and sand-loss mitigation fees have been implemented as a requirement for new CDPs to mitigate for these impacts, by helping to maintain a wide sandy beach for public access and recreation. Additionally, CDP 6-16-0281 requires a \$40,546 deposit for this project into a sand loss mitigation account in-lieu of providing the total amount of sand to replace the sand that would be lost due to the impacts of the seawall extension over 20 years.

The proposed lease is limited to a 10-year term and requires the Lessee to insure the lease premises and indemnify the State for any liability thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land and does

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not alienate the State's fee simple interest or permanently impair public rights.

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 at Solana Beach, which is a tidally influenced site. By 2030, the region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure.

Improvements to the lease area include the construction of a 140-foot-long, 32-foot-high, 30-inch-thick seawall on the beach and bluff, encasing the seaward face of the natural bluff headland in concrete, including backfilling behind the wall, and installation of hydroseed and container plantings on the existing geogrid slope.

The seawall within the lease area will be vulnerable to the impacts from sea-level rise and more frequent and intense storms that are the result of climate change. The seawall is likely to degrade over the lease term due to increased time of exposure to wave action, storm surge, and higher total water levels. Bluff erosion as a result of precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the seawall from the landward side. Therefore, it may require more frequent maintenance to ensure continued function during and after storm seasons and reduce the risk it poses to public safety in the event they become a source of marine debris or a coastal hazard as a result of dislodgement or structural failure.

The seawall also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on sovereign land adjacent to the lease area. The beach area seaward of the seawall is subject to width reduction and loss from erosion, scour, and coastal squeeze (the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure). In addition, the seawall may prevent or inhibit landward migration of the beach as a barrier between the naturally eroding bluffs and the beach, effectively

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preventing beach replenishment via natural passive erosion. Due to their placement and composition, seawalls increase beach scour at the toes and sides of the walls by reflecting and refracting wave energy back on to the beach with higher force. Unless beach replenishment projects are implemented, beach loss is anticipated to increase over the term of the lease because of the combined factors of climate change impacts, natural dynamic coastal processes, and the presence of this seawall.

The 10-year lease term provides both the Commission and the lessee an opportunity to review on a more frequent interval the effects of sea-level rise and evaluate the design and functionality of the existing protective structures in order to make incremental adaptation steps as necessary and appropriate.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, or for the foreseeable term of the proposed lease, 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. Termination of the lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. The California Coastal Commission prepared an environmental document pursuant to its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), and granted Permit No. 6-16-0281 for this Project on February 9, 2017.

Staff has reviewed the document and determined that the conditions, as specified in the California Code of Regulations, title 14, section 15253, subdivision (b), have been met for the Commission to use this document for its compliance with the California Environmental Quality Act (CEQA).

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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 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.

APPROVALS OBTAINED:

City of Solana Beach
California Coastal Commission

FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers
California Regional Water Quality Control Board.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that CDP No. 6-16-0281 (the environmental document), prepared for this Project and adopted on February 9, 2017, by the CCC pursuant to its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), is a substitute document as provided by the California Code of Regulations, title 14, section 15252, subdivision (a), and that the Commission has reviewed and considered the information therein.

Find that the conditions described in the California Code of Regulations, title 14, section 15253, subdivision (b), have been met for the Commission, acting as a responsible agency, to use the environmental document to comply with the requirements of the California Environmental Quality Act. (California Code of Regulations, title 14, section 15096.)

Determine that the Project, as approved, will not have a significant effect on the environment.

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, 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:

1. Authorize termination of Lease No. PRC 7789.1, a General Lease – Protective Structure Use issued to David Jay Winkler and Sherry Lynn Winkler, Trustees of the Winkler Trust Dated June 5, 1991, upon execution of the new lease.
2. Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning October 1, 2017, for a term of 10 years, for continued use and maintenance of a 31-foot-long by 23-foot-high seawall and various sea cave/notch fills, a 4-foot-high extension to the existing seawall, a 55-foot-long by 27-foot-high seawall extension, a 15-foot-long section of concrete infill to the north, a 7-foot-long by 27-foot-high seawall extension, and a 7-foot-long concrete wave deflector to the south of the existing seawall; and construction, use, and maintenance of a 32-foot-high tied-back shotcrete seawall with wave deflector and an architecturally treated finish as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$3,794, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A
LAND DESCRIPTION

PRC 7789.1

A parcel of tide and submerged land in the bed of the Pacific Ocean lying adjacent to "Solana Beach Vista" as shown on Map No. 2143, sheet 2, filed December 10th 1928 in Official Records of San Diego County, situate in the City of Solana Beach, San Diego County, California and more particularly described as follows:

BEGINNING at a point on the face of a seawall having CCS 83, Zone 6 coordinates N(y) = 1944574.76, E(x) = 6246790.78; from which a lead and disc stamped "RCE 7808" as shown on Record of Survey Map #8667, San Diego County, bears S 29°34'39" E 1096.10 feet; thence along said face of said seawall the following thirty eight (38) courses;

- (1) thence S 48°28'05" E 11.53 feet;
- (2) thence S 42°59'17" E 4.01 feet to a tangent curve;
- (3) thence along a curve to the right, having a radius of 6.30 feet and an arc distance of 8.30 feet;
- (4) thence S 32°16'17" W 8.26 feet;
- (5) thence S 27°00'38" W 2.64 feet to a tangent curve;
- (6) thence along a curve to the left, having a radius of 5.02 feet and an arc distance of 6.83 feet;
- (7) thence S 50°14'28" E 7.75 feet;
- (8) thence S 54°35'58" E 30.31 feet to a tangent curve;
- (9) thence along a curve to the right, having a radius of 3.70 feet and an arc distance of 4.76 feet;
- (10) thence S 24°51'59" W 7.71 feet;
- (11) thence S 02°28'39" E 5.03 feet;
- (12) thence S 43°13'06" E 4.57 feet;
- (13) thence S 57°03'35" E 5.14 feet;
- (14) thence S 72°45'00" E 7.36 feet;
- (15) thence S 81°43'51" E 26.78 feet;
- (16) thence S 55°49'32" E 15.53 feet, more or less, to the southwesterly prolongation of the southeasterly line of Lot 7, as shown on said Map No. 2143;
- (17) thence leaving said face of said seawall and northeasterly along said line 1.82 feet;
- (18) thence leaving said line N 55°49'32" W 7.00 feet;
- (19) thence N 29°08'43" E 33.60 feet;
- (20) thence N 73°48'05" W 7.11 feet;
- (21) thence S 37°26'33" W 23.02 feet;
- (22) thence S 57°32'46" W 12.97 feet;
- (23) thence N 81°43'51" W 18.73 feet;
- (24) thence N 72°45'00" W 6.96 feet;
- (25) thence N 57°03'35" W 4.67 feet;

- (26) thence N 43°13'06" W 3.68 feet;
- (27) thence N 02°28'39" W 3.92 feet;
- (28) thence N 24°37'22" E 10.15 feet;
- (29) thence N 54°53'33" W 34.94 feet;
- (30) thence N 35°06'27" E 2.16 feet;
- (31) thence N 49°59'28" W 7.69 feet to a tangent curve;
- (32) thence along a curve to the right, having a radius of 2.61 feet and an arc distance of 3.36 feet;
- (33) thence N 27°00'38" E 2.64 feet;
- (34) thence N 32°16'17" E 8.10 feet to a tangent curve;
- (35) thence along a curve to the left, having a radius of 8.80 feet and an arc distance of 11.60 feet;
- (36) thence N 42°59'17" W 4.12 feet;
- (37) thence N 48°28'05" W 11.65 feet;
- (38) thence S 41°31'55" W 2.50 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of said Pacific Ocean.

BASIS OF BEARINGS for this description is based on California Coordinate System 1983, Zone 6 (2004 epoch) as surveyed April 2004 by and on file with the California State Lands Commission under WO 25440.

All distances are grid distances.

END OF DESCRIPTION

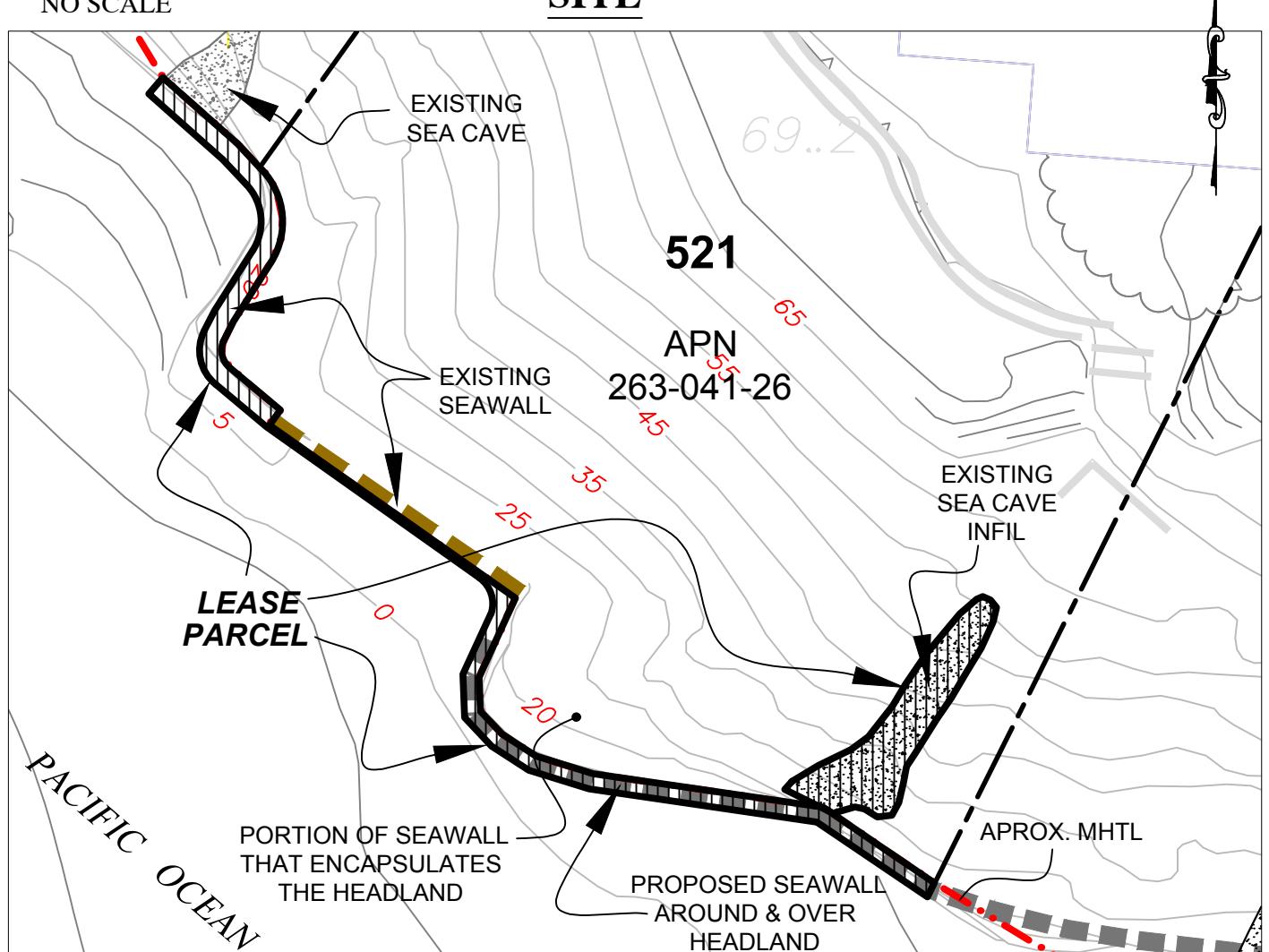
This description is based on Applicant provided design plans for a proposed seawall, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 07/14/17 by the California State Lands Commission Boundary Unit.



NO SCALE

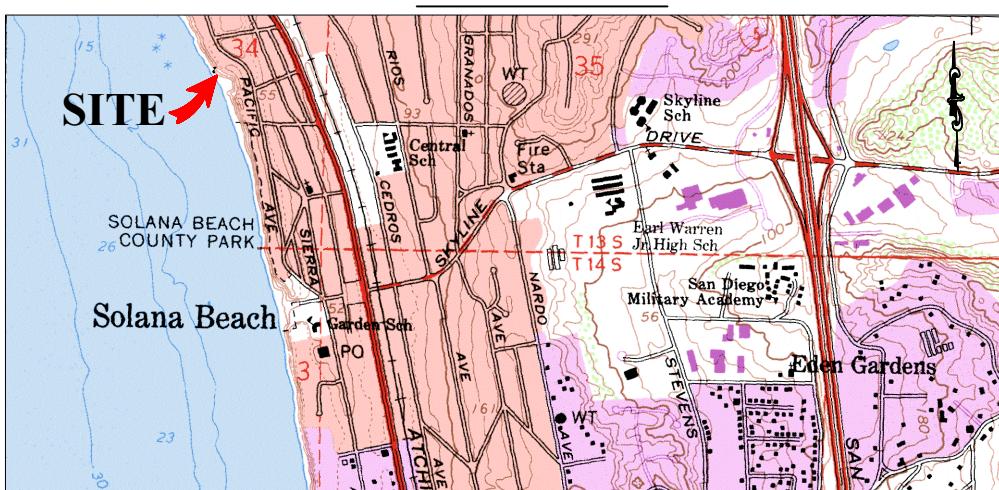
SITE



521 PACIFIC AVENUE, SOLANA BEACH

NO SCALE

LOCATION



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 7789.1

WINKLER, TRUSTEES
APN 263-041-26
GENERAL LEASE -
PROTECTIVE
STRUCTURE USE
SAN DIEGO COUNTY

