

**STAFF REPORT
C52**

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11/29/17
PRC 8912.9
L. Pino

AMENDMENT OF LEASE

LESSEE:

San Diego Unified Port District

AREA, LAND TYPE, AND LOCATION:

97 acres more or less of inland tide and submerged land in San Diego Bay, Chula Vista, San Diego County.

AUTHORIZED USE:

Management of seasonal wetlands, open space, and nature center.

LEASE TERM:

49 years, beginning February 19, 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.

PROPOSED AMENDMENT:

1. Amend the lease to authorize the San Diego Unified Port District's, Site 6 Preparation and Grading Plan, which includes the following activities:
 - i. Clearing, grubbing, and preparation of the site for imported fill;
 - ii. Placement and grading of no more than 60,000 cubic yards (cy) of soil, and erosion protection; and
 - iii. Re-vegetation of the site with non-invasive low water plants.
2. Any soils placed within the Lease Premises shall be tested for suitability for placement and shall comply with all state, federal, and local regulatory standards for determining the suitability of the material used as fill.

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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; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On December 10, 2010, the Commission authorized Lease No. PRC 8912.9, a 49-year, General Lease - Public Agency Use, to the San Diego Unified Port District (District or Lessee) for the management of seasonal wetlands and open space; public access; and a nature center, on lands acquired pursuant to a land exchange agreement between the District, the Commission, and North Chula Vista Waterfront L.P. (AD 558) ([Item C48, December 10, 2010](#)). The lease began on February 19, 2016, and will expire on February 18, 2065. The Lessee is now applying for an amendment to the Lease to include authorization for the proposed Site 6 Preparation and Grading Plan (Project).

The proposed Project is located in the area designated as the Sweetwater Signature Park and Recreational Vehicle Park (Park) in the Port Master Plan, and will be developed as a public park in the first phase of the redevelopment of the Chula Vista Bayfront. This Project is part of a larger effort to raise elevations in the Chula Vista Bayfront prior to redevelopment to reduce vulnerabilities from potential flooding caused by sea-level rise.

The proposed Project covers approximately 8 acres within the Lease Premises. The Lessee's contractor will first place temporary perimeter fencing and temporary erosion control systems throughout the site. The contractor will remove and dispose of existing vegetation, and remove, scarify, and re-compact the existing soil to prepare it for new vegetation growth. Next, approximately 60,000 cy of clean imported soil will be spread over the site in layers 1 to 5 feet deep and then compacted to the specific density and grade requirements of the site. After soil placement and compaction, hydro-mulch with non-invasive, low water-use plant seeds will be applied. Site stabilization will be performed to meet the requirements of the General Stormwater Construction Permit and the District's Jurisdiction Runoff Management Plan. Temporary erosion control measures will be maintained until the new vegetation is established to prevent sediments from eroding and traveling away from the site.

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The fill will raise the elevation of the site to improve drainage and the site's resilience against predicted sea-level rise. The Project will raise the elevation of the site from its current elevation of 10 to 20 feet (NAVD88) to an elevation of 14 to 20 feet. The imported fill will be sourced from the Tenth Avenue Marine Terminal. Soil samples from the proposed donor site have been evaluated and determined to be geotechnically and environmentally acceptable for use as fill. All soil imported for use at the Project site will be tested to insure it meets the requirements of the San Diego Regional Water Quality Control Board (SDRWQCB).

Work at the Project site is anticipated to begin in early December 2017. The District anticipates that site preparation, soil import, and soil placement will take 30 to 60 days to complete, and that site stabilization and plant establishment will take 120 to 180 days after completion of the soil placement. The District anticipates that the work will be completed, and the re-vegetation established within 4 to 6 months after Project commencement.

The proposed Project will be required to conform to the Chula Vista Bayfront Development Policies and the mitigation measures identified in the [Chula Vista Bayfront Master Plan \(CVBMP\) Environmental Impact Report \(EIR\)](#). All work will comply with Coastal Development Permit CDP-2017-01 (CDP). The applicable mitigation measures from the EIR are included as special provisions of the CDP.

A Biological Resource Survey Report evaluating the Project site was prepared in March 2015. The existing vegetation on the Project site is described as disturbed land with little biological value. The Project is designed to minimize impacts to sensitive habitat areas through awareness training, noise and light restrictions, and monitoring as required by the CVBMP and the Mitigation Monitoring and Reporting Program. No construction activities or soil placement would occur in wetlands, seasonal ponds, or riparian habitats as identified in the two biological resource surveys. Therefore, no impacts to nearby sensitive habitats are anticipated from the Project.

All solid and liquid construction waste and litter will be properly stored, handled and disposed of in accordance with the General Construction Permit (Permit) issued by the SDRWQCB. The Project will not generate waste or litter after construction.

Erosion and sedimentation during construction will be controlled in accordance with the Permit. Implementation of measures from the MMRP

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will help minimize impacts from construction activities including noise and vibration, dust, smoke, fumes, odors, and emissions from construction vehicles.

No impacts to traffic are anticipated as a result of Project activities. However, if traffic control is necessary, a traffic control plan will be prepared in accordance with the MMRP.

The site currently has no improvements and is fenced off from public access. Access to the site is limited to shuttle buses taking visitors to the Living Coast Discovery Center and authorized vehicles going to the Discovery Center or U.S. Fish and Wildlife Service offices.

The proposed Project is necessary to facilitate the future redevelopment of the site as a public park. The Park is envisioned as a passive use, low-impact, meadow-type open space with amenities such as public restrooms, drinking fountains, bicycle racks, children play areas, picnic areas, trash receptacles, interpretive signage, and decomposed granite paving. Additionally, the proposed RV area of the Park would provide low-cost overnight accommodations in the area.

Staff believes that the proposed amendment is consistent with the use authorized for this lease and that the approval of the proposed Project will not adversely impact Public Trusts needs and values at this location, at this time, and for the foreseeable term of the lease. Project activities will not adversely impact public access and recreational opportunities in the area because the site is not currently open to the public. Furthermore, the proposed Project is an interim step in the eventual completion of a public park that will promote and enhance public access to and the enjoyment of State waters; facilitate and encourage recreational use of State lands; and enhance the quality and protection of key habitat areas. Therefore, staff believes the proposed Project is consistent with the common law Public Trust Doctrine.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect open coastal areas in California. 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 and larger tidal events, and can affect erosion and sedimentation rates. As stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase

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the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). The combination of these conditions will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. Climate change and sea-level rise will further influence coastal areas by changing erosion and sedimentation rates. Beaches and coastal landscapes will be exposed to increased wave force and run up, potentially resulting in greater beach erosion than previously experienced.

The Project is located on a relatively flat, disturbed area adjacent to San Diego Bay, and will eventually be developed into the Park. In order to create a more resilient site to accommodate potential sea-level rise and improve drainage, the Project would raise the elevation of the site, currently at 10 to 20 feet above sea level to 14 to 20 feet above sea level. Overall, the Project is expected to enhance resiliency of the Project area to sea-level rise impacts.

Conclusion:

Staff believes the authorization of this lease amendment is consistent with the common law Public Trust Doctrine, and is in the State's best interests.

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; and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. An Environmental Impact Report, State Clearinghouse No. 2005081077, was prepared by the San Diego Unified Port District and certified on May 18, 2010, for this Project. Staff has reviewed this document and the Mitigation Monitoring and Reporting Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.
3. The Commission considered the EIR at its December 10, 2010 meeting ([Item 48, December 10, 2010](#)) for consideration of a land exchange agreement and lease. As part of the Commission's approval of the lease, the Commission adopted a Mitigation Monitoring and Reporting Program, Findings, and Statement of Overriding Conditions made pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15093, and

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15096), as contained on file in the Sacramento office of the California State Lands Commission.

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

APPROVALS OBTAINED:

Coastal Development Permit – CDP-2017-01

San Diego Regional Water Quality Control Board – Letter of Concurrence

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an Environmental Impact Report, State Clearinghouse No. 2005081077, and a Mitigation Monitoring and Reporting Program were prepared by the San Diego Unified Port District and certified on May 18, 2010, for this Project and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgement, the scope of activities to be carried out under the lease amendment to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

Find that the Mitigation Monitoring and Reporting Program, Findings, and Statement of Overriding Considerations remain valid.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the authorization of this lease amendment is consistent with the common law Public Trust Doctrine and is in the State's best interests.

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SIGNIFICANT LANDS INVENTORY FINDING:

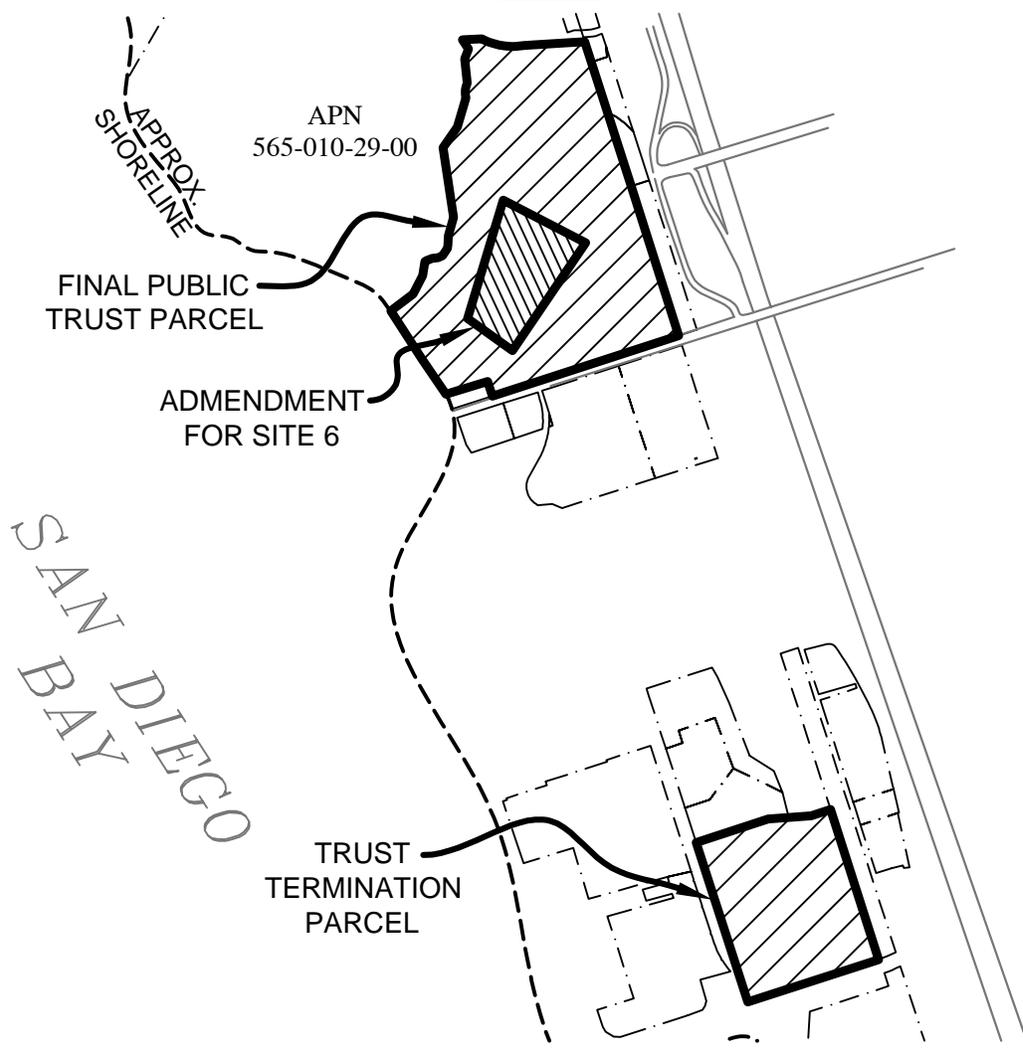
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 8912.9, a General Lease-Public Agency Use, effective November 29, 2017, to authorize activities associated with the San Diego Unified Port District's proposed Site 6 Preparation and Grading Plan, as shown on Exhibit A (for reference purposes only).

NO SCALE

SITE

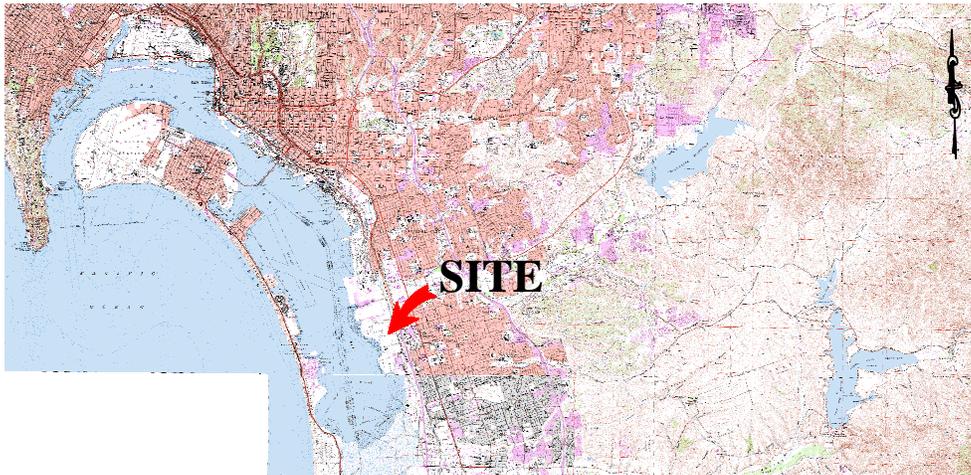


SAN DIEGO BAY

SAN DIEGO BAY, CHULA VISTA

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 A

PRC 8912.9
 SAN DIEGO UNIFIED PORT
 DIST.
 APN 565-010-30-00 &
 567-011-05-00
 GENERAL LEASE -
 PUBLIC AGENCY USE
 SAN DIEGO COUNTY



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