

**CALENDAR ITEM
C45**

A 33
S 18

02/21/14
W 26547
R. Collins

**GENERAL LEASE –
RECREATIONAL AND PROTECTIVE STRUCTURE USE**

APPLICANT:

Rio Buena Vista Homeowners' Association

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Colorado River, adjacent to Lots 37, 38, and 39, Tract No. 15640, Map Book 257, Pages 86-92, Amended Map Book 261, Pages 88-94, city of Needles, San Bernardino County.

AUTHORIZED USE:

Use and maintenance of an existing concrete stairway with railing and riprap bankline.

LEASE TERM:

10 years, beginning February 21, 2014.

CONSIDERATION:

The public use and benefit, with the State reserving the right to set a monetary consideration if the use of the Lease Premises changes.

SPECIFIC LEASE PROVISIONS:

Insurance:

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

Other:

Applicant acknowledges that the Public Pedestrian Access Easement shall remain open to the public and that no structures or improvements shall be erected and no personal property placed so as to obstruct or prevent public access in and along the Easement. Such improvements include, but are not limited to, fences, walls, railings, or landscaping. Applicant further acknowledges that they shall not place signs or advocate in any other manner in such a way as to prevent or discourage public use of the Public Pedestrian Access Easement.

CALENDAR ITEM NO. **C45** (CONT'D)

OTHER PERTINENT INFORMATION:

1. Applicant owns one of the upland parcels adjoining the lease premises.
2. The State of California had its fee ownership of the sovereign land located in the Colorado River at this location confirmed in 1991 as a result of a Boundary Line Agreement and Compromise Settlement entered into between the Commission and Kahala Needles Partners, Ltd., a Nevada Limited Partnership, recorded as AD 134 dated January 1, 1991, and recorded on August 11, 1992, document No. 92-333250, Official Records, San Bernardino County, California. Projects, including new development or maintenance of existing facilities, extending waterward of the Ordinary High Water Mark (OHWM) fixed in the abovementioned Agreement (AD 134) require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicant's upland property is located along the Colorado River adjacent to the fixed OHWM.
3. Pursuant to AD 134, the State of California was granted a perpetual public pedestrian access easement running parallel to the fixed OHWM. The easement is intended to provide public access to and along the bank of the Colorado River. The easement affects lots 1-40 of the Rio Buena Vista residential subdivision, one of which is the Applicant's property. Public access to the easement is from the northern or southern end of the subdivision, or from the Colorado River.
4. The United States Department of the Interior, Bureau of Reclamation (Reclamation), Yuma Area Office conducted a review by boat of the riprap bankline on March 27, 2002, and also conducted a site visit on April 10, 2002. The inspection revealed that the bankline had been cleared of vegetation and that the federally applied riprap and federally constructed jetties were undisturbed and in good condition. By letter dated April 23, 2002, Reclamation acknowledged their capacity to apply additional riprap to the bankline location in the future was compromised due to the pending development of the upland residences and subsequently declared that Reclamation would not provide additional riprap to the bankline location in the future. Consequently, Reclamation decreed that the upland homeowner (Applicants) would be responsible for maintaining protection of their own banklines in the future, subject to the homeowners seeking approval and permitting of their riprap or bankline construction work from the United States Army Corps of Engineers under Section 10 of the Rivers and Harbors Act of 1899.

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5. On or about November 17, 2006, Diamond R, LLC, the developer of the Rio Buena Vista subdivision, initiated construction of a parking lot, shade structure, and concrete stairway on Lot 39. The stairway, which originates on the Public Pedestrian Access Easement on Lot 39, continues down the riprap bankline across sovereign land behind Lots 37 and 38, and terminates on the beach. The stairway provides access from the Public Pedestrian Access Easement to the Colorado River. The developer subsequently conveyed Lot 39 and the improvements constructed thereon to the Applicant as Common Area to be maintained in perpetuity.
6. The stairway with railing and riprap bankline benefits both the public and the Applicant, and will be maintained by the Applicant at no cost to the public.
7. 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.

8. 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 the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a

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categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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 and Protective Structure Use to the Rio Buena Vista Homeowners' Association beginning February 21, 2014, for a term of 10 years, for continued use and maintenance of an existing concrete stairway with railing and riprap bankline as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the concrete stairway with railing and riprap bankline to be the public use and benefit with the State reserving the right to set a monetary consideration if it is determined to be in the best interest of the State; liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 26547

LAND DESCRIPTION

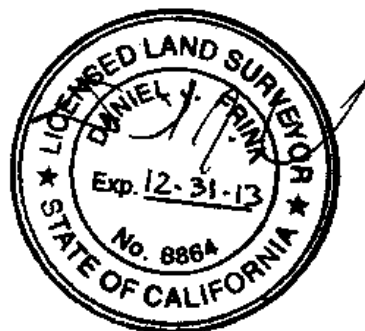
A parcel of State owned land adjacent to Lots 37, 38 and 39 of Tract No. 15640 as shown on Tract Map recorded in Book 261, Pages 88 through 94, inclusive of Maps, in the Office of the County Recorder of San Bernardino County, State of California, described as follows:

BEGINNING at the easterly corner of Lot 39; thence northwesterly along the northeasterly lines of Lots 39, 38 and 37, said lines 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 46° 00' 00" W 110.09 feet; thence N 82° 35' 14" W 8.57 feet; thence N 49° 46' 05" W 18.80 feet to the northerly corner of said Lot 37; thence leaving said northeasterly line and said Agreed Boundary Line, along the northeasterly prolongation of the northwesterly line of said Lot 37 N 47° 51' 55" E 70.00 feet; thence S 44° 27' 32" E 135.11 feet to the intersection with the northeasterly prolongation of the southeasterly line of Lot 39; thence southwesterly along said northeasterly prolongation S 47° 51' 55" W 60.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying waterward of the toe of revetment adjacent to said Lots 37, 38 and 39.

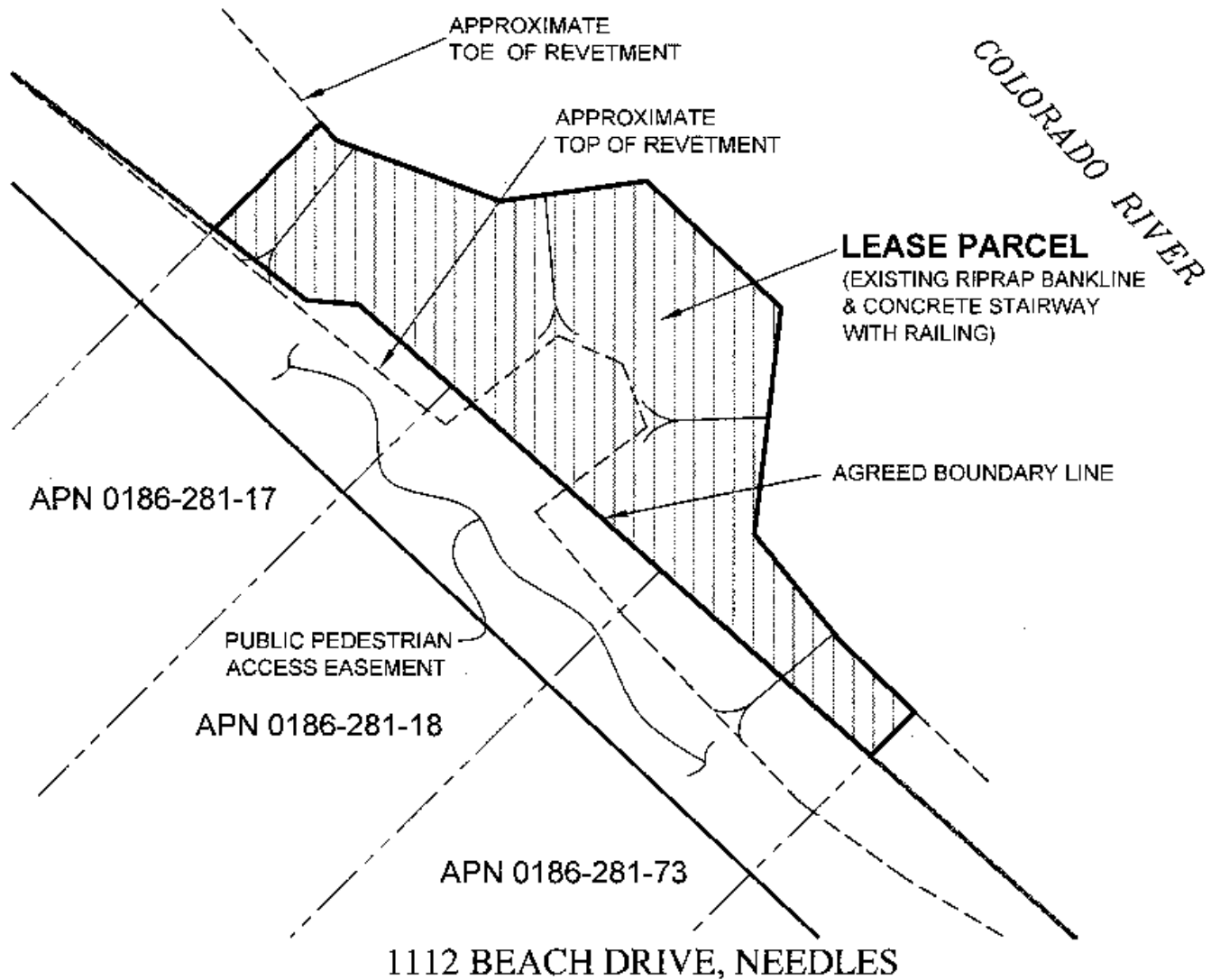
END OF DESCRIPTION

Prepared 08/19/13 by the California State Lands Commission Boundary Unit



NO SCALE

SITE



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

W 26547
RIO BUENA VISTA HOA
APNs 0186-281-17, 18 & 73
GENERAL LEASE -
RECREATIONAL AND
PROTECTIVE STRUCTURE USE
SAN BERNARDINO COUNTY



TS 08/19/13