

**CALENDAR ITEM
C43**

A 78
S 39

06/01/09
WP 8054.1
J. Smith

AMENDMENT OF LEASE

LESSEE:

BAE Systems San Diego Ship Repair, Inc.
P.O. Box 13308
San Diego, California 92170

AREA, LAND TYPE, AND LOCATION:

1.48 acres, more or less, of sovereign lands in San Diego Bay, city of San Diego, San Diego County.

AUTHORIZED USE:

Use and maintenance of an 8' x 6' mooring dolphin, a portion of a dry dock facility adjacent to Pier 1, and appurtenant use areas waterward of the U.S. Pierhead Line, to accommodate the repair of deep draft vessels at Piers 1 and 4.

LEASE TERM:

Beginning December 16, 1998 and ending August 31, 2034.

CONSIDERATION:

\$25,472 per year; with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease.

PROPOSED AMENDMENT:

Amend authorized land use, land description, and annual rent to provide for the continued use and maintenance of an existing 20' x 20' mooring dolphin and appurtenant use area adjacent to Pier 1; continued use and maintenance of an existing 8' x 6' drydock mooring dolphin, and maintenance of a portion of the AFDL (Armed Forces Dock Little) Drydock Facility and appurtenant use area adjacent to Pier 4; and construction, use, and maintenance of a new 20' x 16' mooring dolphin and appurtenant use area adjacent to Pier 3. The legal description contained in Lease No. PRC 8054.1 shall be superseded by the legal description shown in Exhibit A, attached and by reference made a part hereof. The new annual rent will be \$44,193 effective August 1, 2009. The effective date

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of this amendment will be August 1, 2009. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Lessee has the right to use the uplands adjoining the lease premises.
2. Lessee is a tenant of the Port of San Diego and operates a ship repair facility in San Diego Bay (see Exhibit B). The majority of the Lessee's facility is on sovereign lands legislatively granted to the San Diego Unified Port District pursuant to Chapter 67, Statutes of 1962, as amended.
3. On December 16, 1998, the Commission authorized a General Lease – Industrial Use to Southwest Marine, Inc., for the use of four acres of sovereign lands under its jurisdiction for the construction, use and maintenance of a 20' x 20' mooring dolphin and an existing drydock facility and appurtenant lease area adjacent to existing Pier 1. Subsequently, the Lessee provided notice that the name of the company changed from Southwest Marine, Inc., to BAE Systems San Diego Ship Repair, Inc.
4. On December 3, 1999, the Commission authorized an amendment to the lease to remove a 20' x 20' mooring dolphin adjacent to Pier 1, to construct and maintain an 8' x 6' mooring dolphin, and maintain a portion of the auxiliary floating drydock facility and appurtenant use area bayward of the U.S. Pierhead Line Adjacent to Pier 4.
5. Lessee recently notified Commission staff that the 20' x 20' mooring dolphin that was removed was located adjacent to Pier 4, not Pier 1 as previously stated.
6. Lessee is now requesting that the lease be amended to (a) re-authorize the mooring dolphins and appurtenant use areas adjacent to Pier 1 and Pier 4; and (b) authorize the construction, use, and maintenance of a new 20' x 16' mooring dolphin and appurtenant use area adjacent to Pier 3.
7. Commission staff is requesting that the Commission re-authorize the continued use and maintenance of all existing facilities and uses (the 20' x 20' mooring dolphin and appurtenant use area adjacent to Pier 1; the 8' x 6' drydock mooring dolphin and a portion of the AFDL Drydock Facility and appurtenant use area adjacent to Pier 4) and authorize the construction, use, and maintenance of a new 20' x 16' mooring dolphin and appurtenant use area adjacent to pier 3, bayward of the U.S. Pierhead line. Lessee does not anticipate construction and use of

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the new mooring dolphin and use area until August 2009. Staff is therefore recommending that the effective date of this amendment be August 1, 2009.

8. Lessee is presently working with the San Diego Regional Water Quality Control Board (Board) to remedy a waste discharge violation. The Board has released a Tentative Cleanup and Abatement Order requiring remediation of contaminated sediments located within and adjacent to the existing lease area.

On June 9, 2008, the Presiding Officer of the Board referred the proceedings related to the Tentative Cleanup and Abatement Order to mediation. The mediation period has been extended until June 1, 2009, subject to further modification by the Presiding Officer.

Staff continues to monitor actions of the Board on the Tentative Cleanup and Abatement Order to determine whether further action by the Commission will be required.

9. **Existing Mooring Dolphins and Drydocks:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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

10. **New 20' X 16' Mooring Dolphin:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 11, Accessory Structures; Title 14, California Code of Regulations, section 15311.

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

11. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating

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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. Location and Site Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

EXISTING MOORING DOLPHINS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061, AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905(a)(2).

NEW 20' X 16' MOORING DOLPHIN: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061, AS A CATEGORICALLY EXEMPT PROJECT, CLASS 11, ACCESSORY STRUCTURES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15311.

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 SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 8054.1, A GENERAL LEASE - INDUSTRIAL USE, EFFECTIVE AUGUST 1, 2009, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING 20' X 20' MOORING DOLPHIN AND PORTION OF A DRYDOCK FACILITY AND APPURTENANT USE AREA ADJACENT TO PIER 1; CONTINUED USE AND MAINTENANCE OF AN EXISTING 8' X 6' DRYDOCK MOORING DOLPHIN AND MAINTENANCE OF A PORTION OF THE AFDL DRYDOCK FACILITY AND APPURTENANT USE AREA ADJACENT TO PIER 4; AND CONSTRUCTION, USE, AND MAINTENANCE OF A NEW 20' X 16' MOORING DOLPHIN AND APPURTENANT USE AREA ADJACENT TO PIER 3, BAYWARD OF

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THE U.S. PIERHEAD LINE. THE LEGAL DESCRIPTION CONTAINED IN LEASE NO. PRC 8054.1 SHALL BE SUPERSEDED BY THE LEGAL DESCRIPTION, ATTACHED AS EXHIBIT A, AND BY REFERENCE MADE A PART HEREOF, AND SHOWN ON EXHIBIT B (FOR REFERENCE PURPOSES ONLY). THE NEW ANNUAL RENT WILL BE \$44,193. THE EFFECTIVE DATE OF THIS AMENDMENT WILL BE AUGUST 1, 2009. ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.