

**CALENDAR ITEM
C28**

A 72
S 34

08/09/16
PRC 3792.1
R. Collins

**GENERAL LEASE – PUBLIC AGENCY USE
AND ENDORSEMENT OF SUBLEASES**

APPLICANT/SUBLESSOR:

City of Seal Beach

SUBLESSEES:

DCOR, LLC
SoCal Holdings, LLC
Michael E. Balchin
ABM Parking Services

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, in the City of Seal Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of an existing pier with a lifeguard tower, 750-foot-long concrete sheet pile groin, maintenance building, storage building, restaurant, public restroom, picnic area, raised planter areas with retaining walls, three parking lots, and a tot lot with a perimeter wall; the construction, use, and maintenance of a seasonal flood control berm to prevent beach run-up during winter months; beach nourishment; and the seasonal placement, use, and maintenance of temporary lifeguard stations.

LEASE TERM:

30 years, beginning June 22, 2016.

CONSIDERATION:

Annual rent in the amount of \$59,594, with rent review conducted on the 10th and 20th anniversary of the lease, upon any extension or amendment of an existing sublease, or upon execution of a new sublease, as specified in the lease.

CALENDAR ITEM NO. **C28** (CONT'D)

SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance in an amount no less than \$5,000,000.

Sublesees: Commercial General Liability insurance in an amount no less than \$1,000,000.

SUBLEASE: DCOR, LLC

AUTHORIZED USE:

Use of the parking lot and boat landing from the pier.

SUBLEASE TERM:

Month-to-month.

SUBLEASE: SoCal Holdings, LLC

AUTHORIZED USE:

Use of the parking lot and boat landing from the pier.

SUBLEASE TERM:

Five years, ending February 10, 2018.

SUBLEASE: Michael E. Balchin

AUTHORIZED USE:

Use and maintenance of the River's End Café and a public restroom on West Beach.

SUBLEASE TERM:

Five years, ending April 30, 2017.

SUBLEASE: ABM Parking Services

AUTHORIZED USE:

Management and operation of three public parking lots.

SUBLEASE TERM:

Month-to-month.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

CALENDAR ITEM NO. **C28** (CONT'D)

Public Trust and State's Best Interests Analysis:

On June 22, 1967, the Commission authorized a 49-year General Lease – Public Agency Use to the City of Seal Beach (City) for an existing pier, parking lots,

http://archives.slc.ca.gov/Meeting_Summaries/1967_Documents/06-22-67/Items/062267C43.pdf, and other related facilities. The lease expired on June 21, 2016, and the City is now applying for a new lease.

The nearly mile-long public beach is divided into two segments by a 750-foot-long concrete sheet pile groin immediately west of the pier. The west segment of the beach (West Beach) is 2,600 feet long and varies in width from 1,200 feet on the west end near the San Gabriel River to 250 feet adjacent to the groin. The east segment of the beach (East Beach) is 2,400 feet long and varies in width from 500 feet adjacent to the groin to as little as 100 feet in width at Dolphin Street before becoming 500 feet wide at the far east end of the beach adjacent to the Anaheim Bay west jetty. Every summer the City places and provides staffing for temporary lifeguard stations evenly spaced along the entire beach frontage.

Originally built in 1906 with a length of 1,865 feet, the Seal Beach pier is the second longest wooden pier in California. The pier, with a lifeguard tower, is currently used for sightseeing and fishing. It is also a shuttle pick-up/drop-off point for several oil companies' employees, equipment, and supplies to offshore oil platforms and petroleum producing islands.

On May 20, 2016, a fire broke out on the Seal Beach pier causing extensive structural damage to the pier and destroying a vacant restaurant and bait shop at the end of the pier. The pier was subsequently closed to the public for health and safety reasons and remains closed. The City has taken emergency action to assess damage and initiate expeditious demolition and repair of the damaged pier. Repair of the structure will only involve like-for-like replacement of damaged stringers, cross braces, melted and distorted pile wraps, decking, and lighting appurtenances and is considered to be required maintenance under the terms of the lease. The initial goal is to reopen the pier to the public, with replacement of the restaurant to occur at a later date.

The City has requested a 30-year lease term in order to allow prospective restaurant operators to secure long-term financing to rebuild the restaurant. After the City secures a restaurant operator, the City will be

CALENDAR ITEM NO. **C28** (CONT'D)

required to submit an application to the Commission to amend the lease to authorize the construction and use of the restaurant on the pier.

The City has entered into four subleases on the lease premises. Two subleases, to DCOR, LLC and SoCal Holdings, LLC, provide unassigned parking within the parking lots to employees and provide shuttle access to the pier. The third sublease is for the operation and maintenance of the River's End Café on West Beach near the mouth of the San Gabriel River, and the fourth sublease is to ABM Parking Services for the management and operation of the three parking lots.

The City maintains three paid public parking lots on the lease premises. The 1st Street parking lot located at the west end of West Beach near the San Gabriel River is entirely on sovereign land and 34 percent of the 8th and 10th Street parking lots straddling the pier occupy sovereign land.

The City uses a maintenance building and a storage building located on sovereign land adjacent to the San Gabriel River immediately north of the 1st Street parking lot. Maintenance activities consist of pier maintenance, including decking replacement, parking lot maintenance, beach erosion control, and collection of garbage from waste collection receptacles maintained on the pier, in park areas, parking lots, restrooms, and on the beach.

The River's End Café, picnic area, and a public restroom occupy sovereign land on West Beach adjacent to the San Gabriel River. The River's End Café is styled as a tropical beach patio restaurant, serving American, Southern, Central-American, Caribbean, and Mexican dishes, served indoors or from a beach-side patio. The picnic area provides concrete tables and a grassy area adjacent to the beach and public restroom.

A portion of a tot lot/beachside playground is located on sovereign land between the pier and the 10th Street parking lot on East Beach. The playground is bordered by a wide sandy beach, has recently been updated with new equipment, and is ADA compliant. The playground serves as a visitor-serving and visitor-attracting amenity to the beach, pier, and other public spaces.

Seal Beach is a popular destination in Southern California and the public beach and pier play an integral part in attracting visitors for ocean-related

CALENDAR ITEM NO. **C28** (CONT'D)

recreation, fishing, and sightseeing purposes. The flat beach and pier structure provide sufficient space for both the pier and other Public Trust consistent activities. The location and structure of the pier allow the public to walk or navigate under or around the pier for continuous access within the Public Trust land. The pier promotes the fundamental right of the public to use tide and submerged lands to engage in commerce, navigation, and fisheries.

The lease area, consisting of public beaches (East and West), the public pier, and the seasonal berm on the East Beach, may be vulnerable to sea-level rise within the 30-year term of the lease. The lease area is bounded on the east end by a jetty that separates Seal Beach from Anaheim Bay and on the west end by a series of jetties and the channelized outflow of the San Gabriel River. It is bisected by the public pier and another smaller groin underneath the pier. These structures exert an artificial influence on the littoral cell sand transport system, resulting in an annual accretion of sand on the West Beach and a depletion of sand on the East Beach. The region is projected to experience up to 2 feet of sea-level rise by 2050 (National Research Council 2012). Additional climate change impacts such as more frequent and stronger winter storm and flooding events may contribute to increased vulnerability throughout the lease area. These cumulative impacts may result in accelerated rates of erosion and beach loss.

Under the proposed lease, the City will continue to construct a 20-foot tall sand berm along East Beach annually, using sand that has accreted on the West Beach. The berm is constructed in the winter to protect upland property, including private residential property, from storm activity. In addition to the berm, beach nourishment is scheduled for the East Beach every 2 years, also using sand that has accumulated on the West Beach.

Over the proposed 30-year lease term, sea levels will continue to rise and storm impacts are likely to increase, potentially increasing the risk to Public Trust resources and values located within and around the lease area, including recreational values associated with the beach, public parking lots, the pier, and public restrooms located underneath the pier. The West Beach is prone to flooding due to its proximity to the San Gabriel River mouth. Increased flooding events in the future could limit the sand supply from the West Beach due to scouring, impacting the East Beach berm by decreasing the amount of available sand for construction. The berm is located on the most erodible section of the beach, and could

CALENDAR ITEM NO. **C28** (CONT'D)

be subject to increased wave action over time. Rising sea levels could impact access to and the functionality of the public parking lots and tot lot located near the pier, as these constitute the most vulnerable structures within the lease area. The combination of sea-level rise, increased wave activity, more frequent storm events, and changing erosion rates could necessitate additional beach nourishment, construction of a higher berm, or other adaptation strategies. Relatively small changes in sea level (roughly 25 centimeters or about 9¾ inches) can greatly increase the level of exposure for flood control berms and may require added nourishments to maintain protection (Gallien et al. 2015).

The lease includes several provisions intended to inform Commission staff and the City of potential impacts from sea-level rise and recognize the need for adaptive measures to address such impacts over the term of the lease. For example, the lease requires the Lessee to provide annual reports on berm construction, including berm dimensions, sand volume, and source sites for the materials to gauge if the berm is increasing in size over time and where possible future impacts may occur if materials are sourced from locations other than the West Beach area. The required annual report will also include any local monitoring information required by permitting agencies relating to sea-level rise vulnerability, structural integrity, and adaptation capacity of the lease area and associated improvements, including sea-level rise and flooding vulnerability and risk assessments; annual flooding frequency and extent; annual site photos; details on repair and maintenance operations; and coastal hazard remediation and removal. In addition, through the terms of the lease the City acknowledges the presence of potential hazards from climate change effects including sea-level rise that may affect the lease area. The City also acknowledges that it, may be required to implement adaptive measures in the future to address adverse impacts resulting from climate change and sea level rise to structures and other improvements and to evaluate the effectiveness of the berm in protecting those improvements and other City infrastructure.

As a long-term measure, the City is required to submit a summary report, five years before the end of the lease, of information obtained over the lease term to provide a comprehensive account of resiliency planning efforts and adaptive strategies for sea-level rise impacts to assess effectiveness. The summary report will also include a consolidation of information from all prior annual reports to help Commission staff and the

CALENDAR ITEM NO. **C28** (CONT'D)

City identify trends and possible future impacts that may occur toward the end of the lease term and beyond.

The proposed lease requires the City to insure the lease premises and indemnify the State. The lease also requires the payment of annual rent based on a percentage of the City's gross income from the parking, pier and restaurant. The authorized uses promote water-related public use of Public Trust land and provide a variety of visitor serving amenities to help the public access and enjoy the lands. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location, at this time, and 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, Strategy 1.2 provide consistency with evolving Public Trust principles and values and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of 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.

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.

CALENDAR ITEM NO. **C28** (CONT'D)

APPROVALS OBTAINED:

U.S. Army Corps of Engineers

FURTHER APPROVALS REQUIRED:

California Coastal Commission

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 2, section 2905, subdivision (a)(2).

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, and for the foreseeable term of the proposed lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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 issuance of a General Lease – Public Agency Use to the City of Seal Beach beginning June 22, 2016, for a term of 30 years, for use and maintenance of an existing pier with a lifeguard tower, 750-foot long concrete sheet pile groin, maintenance building, storage building, restaurant, public restroom, picnic area, raised planter areas with retaining walls, three parking lots, and a tot lot with a perimeter wall; the construction, use, and maintenance of a seasonal flood control berm to prevent beach run-up during winter months; beach nourishment; and the seasonal placement, use, and

CALENDAR ITEM NO. **C28** (CONT'D)

maintenance of temporary lifeguard stations; as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$59,594, with rent reviews conducted on the 10th and 20th anniversary of the lease, upon any extension or amendment of an existing sublease, or upon execution of a new sublease, as provided in the lease; and liability insurance in an amount no less than \$5,000,000 per occurrence.

2. Authorize by endorsement an existing sublease from the City of Seal Beach to DCOR, LLC, of a portion of Lease No. PRC 3792.1, with a month-to-month tenancy.
3. Authorize by endorsement an existing sublease from the City of Seal Beach to SoCal Holdings, LLC, of a portion of Lease No. PRC 3792.1, with a five-year term, expiring on February 10, 2018.
4. Authorize by endorsement an existing sublease from the City of Seal Beach to Michael E. Balchin, of a portion of Lease No. PRC 3792.1, with a five-year term, expiring on April 30, 2017.
5. Authorize by endorsement an existing sublease from the City of Seal Beach to ABM Parking Services, of a portion of Lease No. PRC 3792.1, with a month-to-month tenancy.

EXHIBIT A

PRC 3792.1

LAND DESCRIPTION

A parcel of tide and submerged land, land situate in the bed of San Pedro Bay, lying adjacent to protracted Section 14, T5S, R12W, SBM as shown on the Official Township Plat, approved April 7, 1914, Orange County, State of California, and more particularly described as follows:

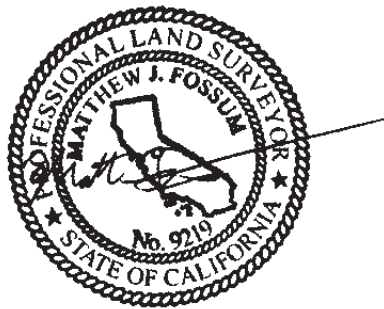
COMMENCING at the southeast corner of Tract No. 1 in the City of Seal Beach, County of Orange, State of California, said corner being the intersection of the northeast line of Electric Avenue with the southern line of Seal Way as shown upon the map of said Tract No. 1, recorded in Book 9 of Miscellaneous Maps at Page 1, Orange County Records; thence continuing southwesterly along the southern line of Seal Way as shown on said map to a point which bears easterly along said line N 77°28'25" E 210.68 feet from the intersection of the southerly prolongation of the centerline of Neptune Avenue and the southern line of Seal Way, said point being the POINT OF BEGINNING; thence continuing westerly along the southern line of Seal Way as shown on said map to the westerly boundary of Tract No. 1; thence northwesterly from said point in a direct line 3,584.36 feet more or less to an intersection with the southwesterly prolongation of the centerline of Third Street in the City of Seal Beach as said street is shown upon the map of Tract No. 2, recorded in Book 9 of Miscellaneous Maps at Page 3, records of said county, at a point located 255.5 feet southwesterly from the southwest line of Ocean Blvd.; thence continuing northwesterly along the prolongation of the foregoing course 590.18 feet more or less to the intersection with the southwesterly prolongation of the southeasterly line of First Street (60 feet wide) as shown upon the map of Bay City, recorded in Book 3 of Miscellaneous Maps at Page 19; thence northeasterly along said line of First Street to a point distant 273.93 feet southwesterly from the southwest line of Ocean Blvd.; thence N 58°54' W, 55.32 feet; thence N 22°51' W, 366.64 feet; thence S 18°23'53" W, 124.63 feet; thence S 28°25'47" W, 409.83 feet; thence S 31°34'48" W, 209.45 feet; thence S 26°05'00" W, 274.99 feet; thence S 19°00'57" W, 195.60 feet; thence S 03°07'08" W, 1177.32 feet; thence S 58°43'00" E, 4428.06 feet more or less to an intersection with southwesterly prolongation of the initial course in the description of Parcel 2, as described in the Second Amended Complaint in Condemnation, No. 3436-RJ Civil, United State of America, Plaintiff, vs. 4,783 acres of land, more or less, in Orange County, State of California, et al, filed in the District Court of the United States in and for the Southern District of California, Central Division; thence

northeasterly along said southwesterly prolongation to the POINT OF BEGINNING.

END OF DESCRIPTION

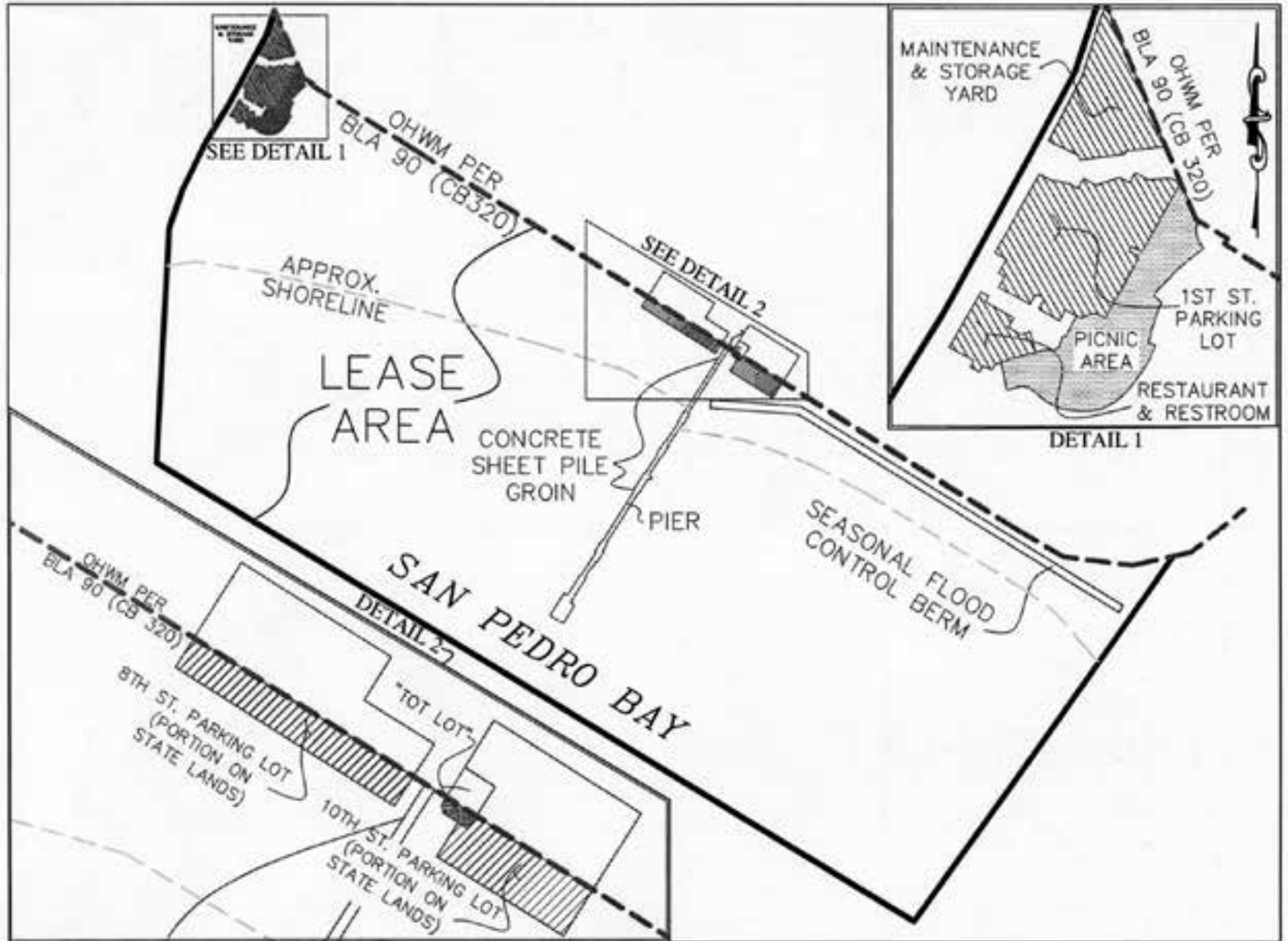
Revised 7/05/16 by the California State Lands Commission Boundary Unit

Revised description based on the {Parcel 1} description found in lease file PRC 2777.1 (W.O. 6568) executed June 22, 1976.



NO SCALE

SITE



SEAL BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3792.1
 CITY OF SEAL BEACH
 GENERAL LEASE -
 PUBLIC AGENCY USE
 ORANGE COUNTY



MJP 7/05/16

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.