

**STAFF REPORT
42**

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10/24/19
PRC 4480.9
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AMENDMENT OF LEASE

LESSEE:

City of Los Angeles Department of Water and Power

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, near Santa Monica, Los Angeles County.

AUTHORIZED USE:

Continued maintenance of a non-operational underwater electrode array and related structures; construction, use, and maintenance of a new underwater electrode array and related structures.

LEASE TERM:

20 years for the new underwater electrode array and related structures; 3 years for the non-operational underwater electrode array, beginning December 6, 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:

The following sections of the lease are proposed to be amended in relation to full removal of the non-operational underwater electrode array:

Section 1, Land Use and Purpose, Term, Consideration and Authorized improvements, of the Lease would be amended to:

- Authorize full removal of the non-operational underwater electrode array and related structures and use and maintenance of a new underwater electrode array and related structures.
- Extend the term of the lease for the non-operational underwater electrode array by two years to December 5, 2021.

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- Add that the consideration is the public use and benefit based on the Lessee's agreement to fully remove the existing electrode array by December 5, 2021; 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. Subject to modification by Lessor as specified in Paragraph 3(c) of Section 3 – General Provisions.

Section 2, Special Provisions is amended to add the following:

- A pre-construction seafloor survey shall be performed, and the survey results shall be submitted to Lessor for review prior to start of construction.
- At least 90 days prior to start of project, Lessee shall provide applicable plans and schedules for Lessor's review and approval.
- At least 15 days prior to start of construction, a Local Notice to Mariners shall be submitted to the U.S. Coast Guard. A copy of the published Notice shall also be submitted to the State Lands Commission's Sacramento office.
- All construction activities shall be carried out in accordance with all applicable safety regulations, permits, and conditions of other involved agencies.
- Lessee shall require the contractor(s) to maintain a logbook during construction operations conducted under the Lease to keep track of all debris created by objects of any kind that fall into the water, and that the Lessee must remove all debris promptly.
- Within 60 days of project completion, Lessee shall provide to Lessor a set of as-built drawings, a post-construction written narrative, and a post-construction survey confirming seafloor clean-up and site restoration.
- Lessee must comply with all mitigation measures and reporting obligations presented in the Los Angeles Department of Water and Power's Final EIR and 2018 EIR Addendum (SCH No. 201009104), and must comply with additional Tribal Consultation measures as described in the lease amendment.
- Replace the existing Exhibit A, A-1, Land Description; and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description,

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and Exhibit B, Site and Location Map, upon Lessor's staff's determination that the non-operational underwater electrode array and related structures have been satisfactorily removed.

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6212, 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 6, 2016, the Commission authorized rescission of lease approval; termination of a General Lease – Public Agency Use; and issuance of a General Lease – Industrial Use to the City of Los Angeles Department of Water and Power (City) for the continued maintenance of a non-operational underwater electrode array and related structures; and the construction, use, and maintenance of a new underwater electrode array and related structures ([Item C44, December 6, 2016](#)). The lease for the newly constructed underwater electrode array will expire on December 5, 2036, but the lease required removal of the non-operational underwater electrode array by December 5, 2019. The City wishes to amend the lease to authorize full removal of the non-operational underwater electrode array and to extend the removal deadline to December 5, 2021.

The non-operational underwater electrode array is part of the Sylmar Ground Return System Replacement Project which replaced the existing electrode array with a new, larger underwater electrode array. The non-operational electrode array includes 24 cement vaults, 48 electrodes, marine cables, marker buoys, and other related structures. The non-operational electrode array could not be removed during the construction of the new electrode array because the array functions as a safeguard and was required to continue to operate until the electricity was transferred to the newly constructed system. The City completed the construction of the new array in June 2019 and is now proposing to remove the existing non-operational underwater electrode array.

Pursuant to the lease requirements, the City prepared a feasibility study for the removal of the existing non-operational underwater electrode array and related structures in 2018. Based on the findings of the feasibility study, staff determined that the existing non-operational underwater

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electrode array and related structures should be entirely removed. This varies from the proposed project analyzed in the Environmental Impact Report (EIR) State Clearinghouse No. 2010091044 certified on August 2, 2016, which assumed it would be abandoned-in-place. The City prepared an Addendum for the full removal of the non-operational underwater electrode array and related structures in August 2018.

The removal of the existing non-operational underwater electrode array includes full removal of 24 unreinforced concrete vaults, which are located directly on the ocean floor approximately 50 feet below mean sea level. Each vault will be hoisted in one piece onto a vessel at the surface. Divers will feed steel cable under and around the vault to secure it for hoisting. Since the vaults have settled into the soft bottom of the ocean floor, it would be necessary to clear a pathway for the steel cable beneath each vault by using a water-jet lance to create channels under the vaults. This procedure will free the vaults from the seafloor and will facilitate the hoisting operation. The cables will be fed by the divers through the cleared channels and secured around each vault.

Each vault would then be slowly hoisted to the surface with a crane mounted to the vessel. A remotely operated vehicle will be utilized to monitor this operation from the seafloor to the surface. It is anticipated that the vaults are structurally sound, and therefore little if any breakage is expected during the hoisting operation. If pieces of concrete break off from the vault, the remaining concrete pieces will be collected by the divers and hoisted to the surface. The vaults would be removed one at a time, and it is anticipated that two to three vaults could be removed in 1 day.

Along with the vaults, 48 electrodes, marine cables, marker buoys, and other related structures will be removed. The buried marine cables will be removed by reeling each bundled set of three cables in a continuous length on to a vessel at the surface once divers have disconnected the conductor cables from the electrode vaults. The removal of the electrode array is anticipated to take approximately 2 to 3 weeks. Allowing for mobilization time and potentially several trips to and from port to transport the removed vaults, the entire removal operation may take about 1 month.

The vessel used for the vault removal operation will be a crane barge, which would require tugboats for transport to and from the electrode site and to provide anchoring support. All power for the hoisting operation and other activities would be provided from the barge. Unless required to return to port to offload vaults, the barge would remain anchored at the electrode site throughout the removal operation. However, personnel

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would be transported by water taxi on a daily basis to and from the electrode site.

After all the vaults are removed, the marker buoys and anchorages will be removed, and the portion of lease premises occupied by the electrode array will be restored. The removal activity is anticipated to be short-term and therefore impacts to recreation will be limited and temporary. Following all removal activities, the seafloor would be surveyed to confirm all the structures are removed and the site is restored to its last natural state.

In addition to the mitigation measures adopted for the project under the City's Final EIR and 2018 EIR Addendum (SCH No. 201009104), the proposed lease amendment includes an expanded protection measure for Archaeological and Tribal Cultural Resources. The proposed lease amendment requires the City to contact California Native American Tribes that are culturally affiliated to the Project site for coordination and advising on unanticipated discoveries. The project archaeologist will determine whether the resource discovered is a unique archaeological resource pursuant to Public Resources Code section 21083.2, subdivision (g) or a historical resource pursuant to California Environmental Quality Act (CEQA) Guidelines, section 15064.5, subdivision (a). If the archaeological resource is determined to be a unique archaeological resource or a historical resource, disposition of the site will be determined based on consultation with the City, Commission staff, and any culturally affiliated Tribal entity that is participating in project coordination.

Conclusion:

The removal of the existing non-operational electrode array marine segment would result in restoring the seafloor to its natural state and remove potential future hazard. The offshore facilities would also not be impacted by the effects of climate change, including sea-level rise, since the area would be returned to its natural state.

Extending the lease term will ensure that the protections currently in place under the lease for Public Trust resources remain effective until the existing non-operation electrode array marine segment removal project is completed.

For the reasons stated above, staff believes the proposed amendment of the lease will not result in significant changes in the use of, or impacts to, Public Trust resources; does not substantially interfere with Public Trust

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needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. Upon expiration of prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease, including but not limited to extending the lease term.
2. This proposed 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.
3. An EIR, State Clearinghouse No. 2010091044, was prepared for for this project by the City and certified on August 2, 2016. Commission staff has reviewed this document prepared pursuant to the provisions of the CEQA (Pub. Resources Code, § 21081.6). The City prepared an Addendum to the EIR dated August 2018 to remove the non-operational underwater electrode arrays and related structures. Commission staff also reviewed this Addendum.
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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2010091044, was prepared for this project by the City and certified on August 2, 2016; that the City prepared an Addendum dated August 2018; that the Commission has

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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 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.

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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 4480.9, a General Lease – Industrial Use, of sovereign land located in the Pacific Ocean, near Santa Monica, Los Angeles County, effective October 24, 2019, to extend the deadline to remove the non-operational underwater electrode array to December 5, 2021; to revise the consideration; to impose conditions related to the removal of the non-operational underwater electrode array and related structures ; and to replace the existing Exhibit A, A-1, Land Description; and Exhibit B, Site and Location Map with the attached Exhibit A, Land Description and Exhibit B, Site and Location Map, upon the Executive Officer's or her designee's determination that the non-operational underwater electrode array and related structures have been satisfactorily removed.

EXHIBIT A

PRC 4480.9

LAND DESCRIPTION

A parcel of tide and submerged land in Santa Monica Bay, Pacific Ocean, at Will Rogers State Beach situate in the County of Los Angeles, State of California, more particularly described as follows:

BEGINNING at the southerly terminus of the centerline of an easement acquired from the State of California, acting through the Department of Parks and Recreation, described in deed recorded January 30, 1970, Book D-4621, Page 451, official records of Los Angeles County, described therein as having a bearing of N 3°03'36" E and a distance of 222.58 feet, and also shown on "Plat of State Lands" indexed as L-CC62 and found in State Lands Commission lease file PRC 4480.9 said point also being a point on the mean high tide line of the Pacific Ocean as shown on said plat; thence from said POINT OF BEGINNING the following five (5) courses:

- 1) S 86°56'24" E, 5.00 feet;
- 2) S 24°46'55" W, 11713.25 feet;
- 3) N 63°45'48" W, 733.18 feet;
- 4) N 28°19'26" E, 11713.31 feet;
- 5) S 86°56'24" E, 5.00 feet to the POINT OF BEGINNING.

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

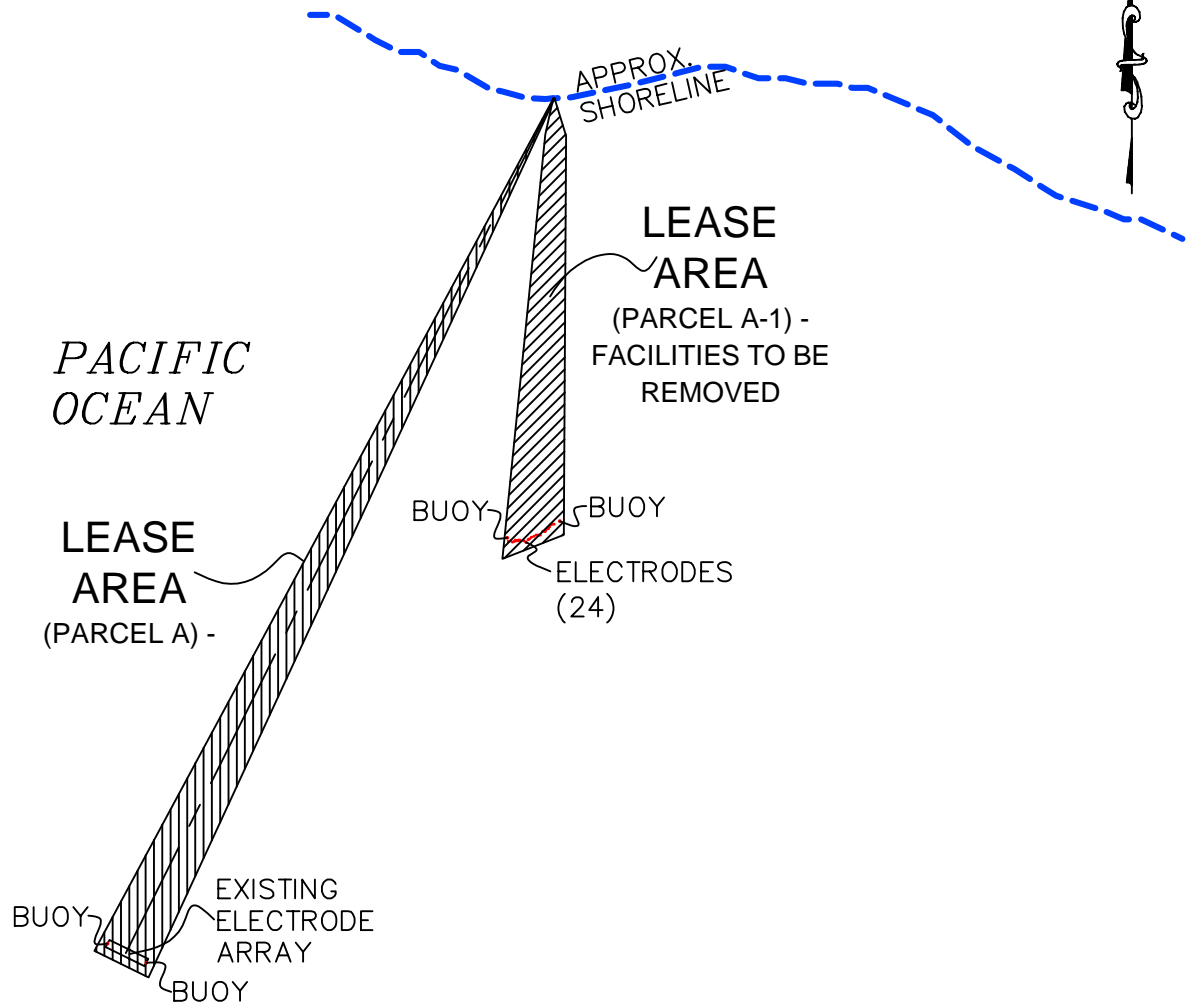
END OF DESCRIPTION

Prepared by State Lands Commission boundary unit 2/27/17.



NO SCALE

SITE



WILL ROGERS STATE BEACH, SANTA MONICA

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 4480.9
LADWP
GENERAL LEASE -
INDUSTRIAL USE
LOS ANGELES COUNTY



MFJ 7/17/19