

**STAFF REPORT  
27**

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12/06/19  
PRC 6674.1  
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**AMENDMENT OF LEASE**

**LESSEE:**

City of Pismo Beach

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the Pacific Ocean, Pismo Beach, San Luis Obispo County.

**AUTHORIZED USE:**

Operation and maintenance of a fixed public municipal pier.

**LEASE TERM:**

25 years, beginning April 20, 2017.

**CONSIDERATION:**

Annual rent in the amount of \$125, with additional consideration being the public use and benefit; and the State reserving the right to fix a different rent if the Commission finds such action to be in the State's best interests.

**PROPOSED AMENDMENT:**

- Authorize the operation and maintenance of up to two food or bait concessions; and an information kiosk on the pier.
- Prior to the execution of any license agreement for concession operations within the Lease Premises, Lessee shall provide Lessor with copies of the proposed agreement for review and approval.
- Replace the existing Exhibit B with the attached Exhibit B (for reference purposes only)
- Delete the existing Exhibit C "Sublease Endorsement" and replace it with the attached Exhibit C "Lease Management Agreement."

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

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**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

**Public Trust and State's Best Interests Analysis:**

On April 20, 2017, the Commission authorized the issuance of Lease No. PRC 6674.1, a 25-year General Lease – Public Agency Use (Lease) to the City of Pismo Beach (City) for the continued use and maintenance of the Pismo Pier, and construction of the Pismo Pier Rehabilitation Project beginning April 20, 2017 ([Item C68, April 20, 2017](#)). The City is now requesting to amend the Lease to authorize the operation and maintenance of up to two food or bait concessions, and an information kiosk on the pier.

The current Lease authorizes, by endorsement, a sublease agreement between Blair and Cheryl Sheldon and the City for the operation of a bait shop. However, during pier renovations, it was determined that the existing bait shop was too old and dilapidated to be reinstalled on the pier, and the City has terminated its sublease agreement with the Sheldons. The City has decided to invest in two mobile trailers, one to be used as a food concession, and the other to be used as an information kiosk. The City is currently determining whether they will also be replacing the bait shop on the pier with a trailer. All of the proposed uses of the trailers are visitor-serving amenities that facilitate and encourage the use and enjoyment of Public Trust resources.

The trailers would be owned and maintained by the City. However, the day-to-day concession operations would be conducted by third-party licensees. Staff has reviewed the City's proposed licensing agreement template and has determined that its terms are consistent with the terms of the City's lease with the Commission; and that the activities proposed are consistent with Public Trust needs and values, at this location, at this time.

Additionally, as part of the proposed Lease amendment, the City is required to provide staff with a copy of any subsequent licensing agreement or contract, for review and approval, to ensure its terms are consistent with the terms of the City's Lease with the Commission, before the execution of any licensing agreement between an operator and the City. The City is also required to provide annual income statements for any revenue generated from the Lease Premises to ensure the State is appropriately compensated for the use of State Land.

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The proposed amendment does not alienate the State's fee simple interest or permanently impair public rights. The proposed amendment does not expand or increase the nature or intensity of use or expand the City's rights within the lease premises. The Lease also requires the City to indemnify the State for any liability incurred as a result of the City's activities. The additional improvements are not permanently affixed to the pier and are mobile; upon the expiration or termination of the Lease, the City may be required to remove all improvements from State land.

**Climate Change:**

When the Commission authorized the lease for the pier on April 20, 2017 ([Item C68, April 20, 2017](#)), staff provided a detailed sea-level rise analysis for the project. Operation and maintenance of a food and bait concession and information kiosk in mobile trailers placed on the pier would not be highly susceptible to the effects of climate change, including sea-level rise. Further climate change impact analyses on the pier and any concession facilities within the lease premises would be assessed at the time the Lease expires in 2042 and would be based on projected sea-level rise scenarios at that time.

**Conclusion:**

For these reasons, staff believes that the approval of the proposed amendment will not interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease; and is in the State's best interests.

**OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application for amending the lease 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 a trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or renewal of any previous lease.
2. 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.
3. The removal of a sublease endorsement from the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is

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an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. **Operation and Maintenance of Retail Concessions and Informational Kiosk:** 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 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

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

**APPROVALS OBTAINED:**

California Coastal Commission

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Operation and Maintenance of Retail Concessions and Informational Kiosk:** 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 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

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

**AUTHORIZATION:**

Authorize the amendment of Lease No. PRC 6674.1, a General Lease – Public Agency Use effective December 6, 2019, to allow the operation and maintenance of up to two food or bait concessions, and an information kiosk within the lease premises; replace the existing Exhibit B, Site and Location Map, with the attached Exhibit B, Site and Location Map; remove

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the existing Lease Exhibit C, Sublease Endorsement, and replace it with a new Exhibit C, Lease Management Agreement, substantially in the form on file in the Commission's Sacramento office; all other terms and conditions of the lease will remain in effect without amendment.

**EXHIBIT A**

**PRC 6674.1**

**LAND DESCRIPTION**

A strip of tide and submerged land 205 feet wide in the Pacific Ocean at Pismo Beach, San Luis Obispo County, California, said strip lying 102.5 feet on each side of the following described centerline.

COMMENCING at the most easterly corner of Block 8 of the "Town of El Pizmo", City of Pismo Beach, County of San Luis Obispo, State of California, according to the map filed for record June 5, 1905, in Book "A" of Maps, Page 155 in the Office of the County Recorder of said County; thence S 47° 15' W 283.43 feet along the southeasterly line of said Block 8; thence N 52° 38' W 103.21 feet; thence S 68° 10' W 162.35 feet to the TRUE POINT OF BEGINNING; thence S 68° 10' W 1200 feet to the end of the herein described line.

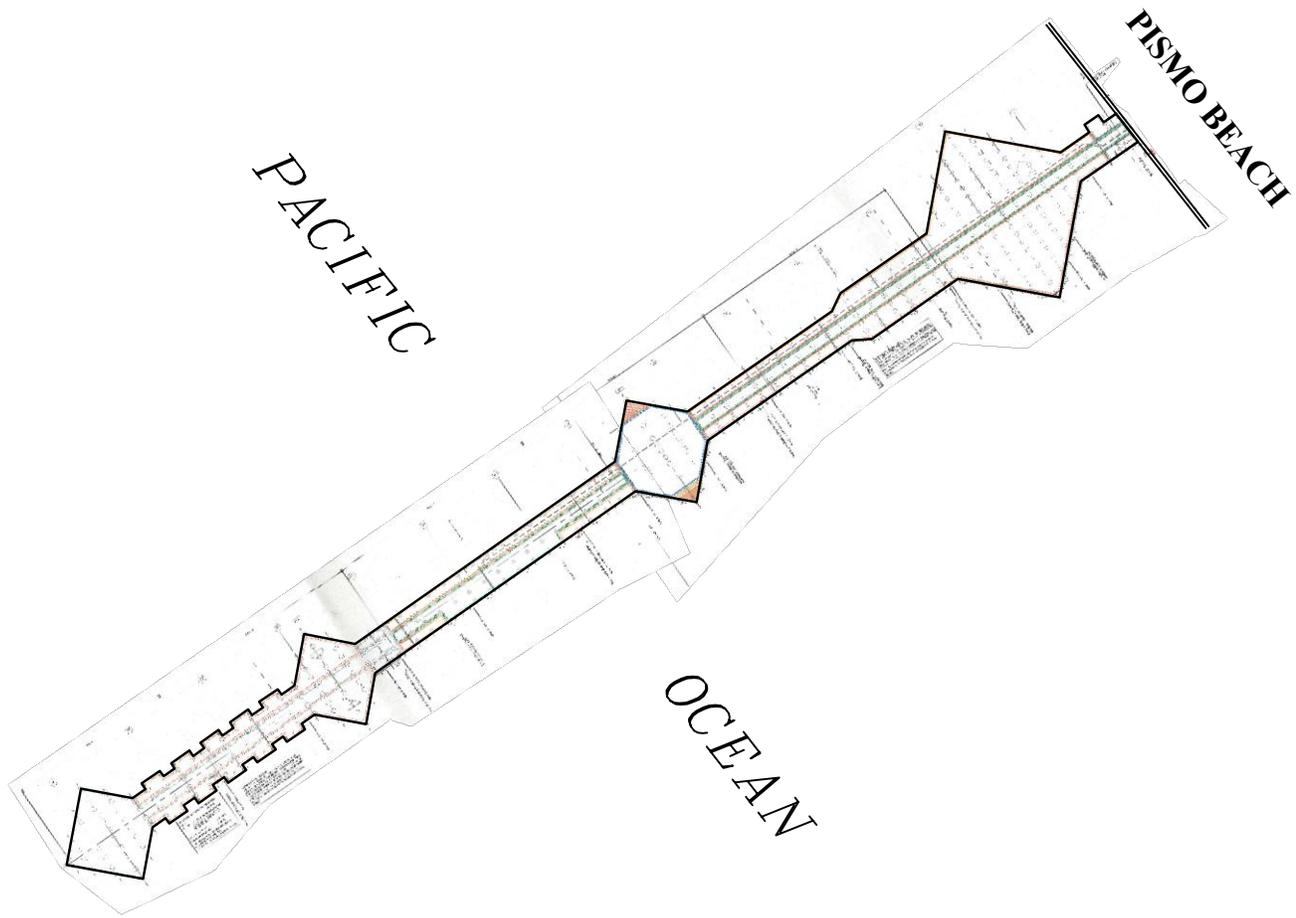
**END OF DESCRIPTION**

Prepared October 9, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE

**SITE**



PISMO PIER

NO SCALE

**LOCATION**



**SITE**

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**

PRC 6674.1  
CITY OF PISMO BEACH  
APN 005-201-021, 022, 023  
GENERAL LEASE -  
PUBLIC AGENCY USE  
SAN LUIS OBISPO CO.



JAK 10/19