

STAFF REPORT

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Lease 8881.1

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K. Connor

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Robert G. Sebring and Gail Sebring, Trustees of the Sebring Family Trust, dated January 10, 2002

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Main Channel of Huntington Harbour, adjacent to 16402 Grimaud Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of an existing cantilevered deck.

LEASE TERM:

10 years, beginning June 28, 2020.

CONSIDERATION:

Rent in the amount of \$646 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On June 28, 2010, the Commission authorized a 10-year General Lease – Recreational Use to Robert G. Sebring and Gail Sebring, for the continued use and maintenance of an existing cantilevered deck, beginning June 28, 2010 ([Item C61, June 28, 2010](#)). That lease will expire on June 27, 2020. On June 28, 2016, the Commission authorized an assignment of the lease from the Lessee to their trust ([Item C70, June 28, 2016](#)). On February 18, 2020, the Applicant submitted an application for a new General Lease –

STAFF REPORT NO. 51 (CONT'D)

Recreational Use for the use and maintenance of the cantilevered deck. There is a boat dock and public access ramp at this location, however, these improvements are under lease to the Broadmoor Huntington Harbour Community Association, Lease 5799.1, and are not affiliated with this lease.

The Main Channel in Huntington Harbour was created in the early 1960s and the adjacent upland parcel is privately owned and developed with a residence. There is no public access at this upland property because the private upland property directly abuts the concrete bulkhead that defines the limits of the channel. The cantilevered deck extends 5 feet into the 400-foot-wide channel, leaving the majority of the Main Channel available for navigation and public recreation.

The cantilevered deck is privately owned, maintained, and connected to the upland residence and has existed at this location for many years. Residential use is generally not consistent with the Public Trust Doctrine. However, the cantilevered deck extends no more than 5 feet over the Main Channel and does not substantially interfere with the public rights of navigation or access. Proposed rent for the cantilevered deck is calculated using a benchmark rate based on nearby upland land values to ensure the State receives appropriate compensation for use of sovereign land as the deck serves as an extension of the upland property's private backyard.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The existing structures subject to the proposed lease are located within the Huntington Harbour development, along an inland, navigable, tidally influenced channel, and may be vulnerable to the impacts of sea-level rise.

STAFF REPORT NO. 51 (CONT'D)

Huntington Harbour is built near sea-level elevation, and as a result is vulnerable to flooding and storm surge events. Huntington Harbour is adjacent to two wetlands, Bolsa Chica and the Seal Beach National Wildlife Refuge, which could act as natural buffers to storm surges and lessen flood risks.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The Los Angeles tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea-Level Rise for Los Angeles¹

Year	Projection (feet)
2030	0.7
2040	1.2
2050	1.8
2100	6.7

Source: Table 28, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). The combination of these conditions will likely result in increased wave run-up, storm surge, and flooding in coastal and near coastal areas. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run-up, potentially resulting in greater beach or bank erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. Flooding conditions could cause structures to be damaged or dislodged,

STAFF REPORT NO. 51 (CONT'D)

presenting hazards to public safety as well as dangers for navigation within the channel. The fixed features may need to be raised or reinforced to withstand future conditions. Although the bulkhead underneath the deck is not under the Commission's jurisdiction, any sea-level rise impacts to the bulkhead could also affect the structures under the Commission's jurisdiction because it serves to stabilize the bank. Therefore, any loss or degradation of the bulkhead could result in property damage and public safety concerns within the lease area and the surrounding waterways.

More locally based knowledge of sea-level rise impacts and adaptation strategies will be available to Huntington Harbour residents as a result of the ongoing efforts to update the City of Huntington Beach's Local Coastal Program and General Plan, and through the City's Coastal Resiliency Task Force. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to the effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease 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. 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. If the Commission denies the application, the Applicant may be required to remove the cantilevered deck and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to 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.

STAFF REPORT NO. 51 (CONT'D)

3. 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.

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:

1. Find that the existing and, for a limited period, continuing use and maintenance of a cantilevered deck is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and,
2. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 28, 2020, for a term of 10 years, for an existing cantilevered deck, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$646, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8881.1

LAND DESCRIPTION

A parcel of submerged land situate in Huntington Harbour, in the City of Huntington Beach, Orange County, State of California, described as follows:

COMMENCING at the most easterly corner of Lot 22, as said lot is shown and designated on that certain map of Tract No. 9738 filed in Book 415 of Miscellaneous Maps at Pages 48 through 50, Official Records of said County; thence along a radial line N 29° 00' 00" E 5.00 feet to the beginning of a non-tangent curve to the right, concave southwesterly and having a radius of 105.00 feet; thence through an angle 02° 43' 46" and an arc distant 5.00 feet to the POINT OF BEGINNING; thence continuing along said curve through an angle 15° 01' 24" and an arc distant 27.53 feet to the southwesterly line of the State of California 400 Feet Channel, said Channel recorded in Book 6368 at Page 411, Official Records of said County; thence along said line N 61° 00' 00" W 27.02 feet; thence N 29° 00' 00" E 4.88 feet to the POINT OF BEGINNING.

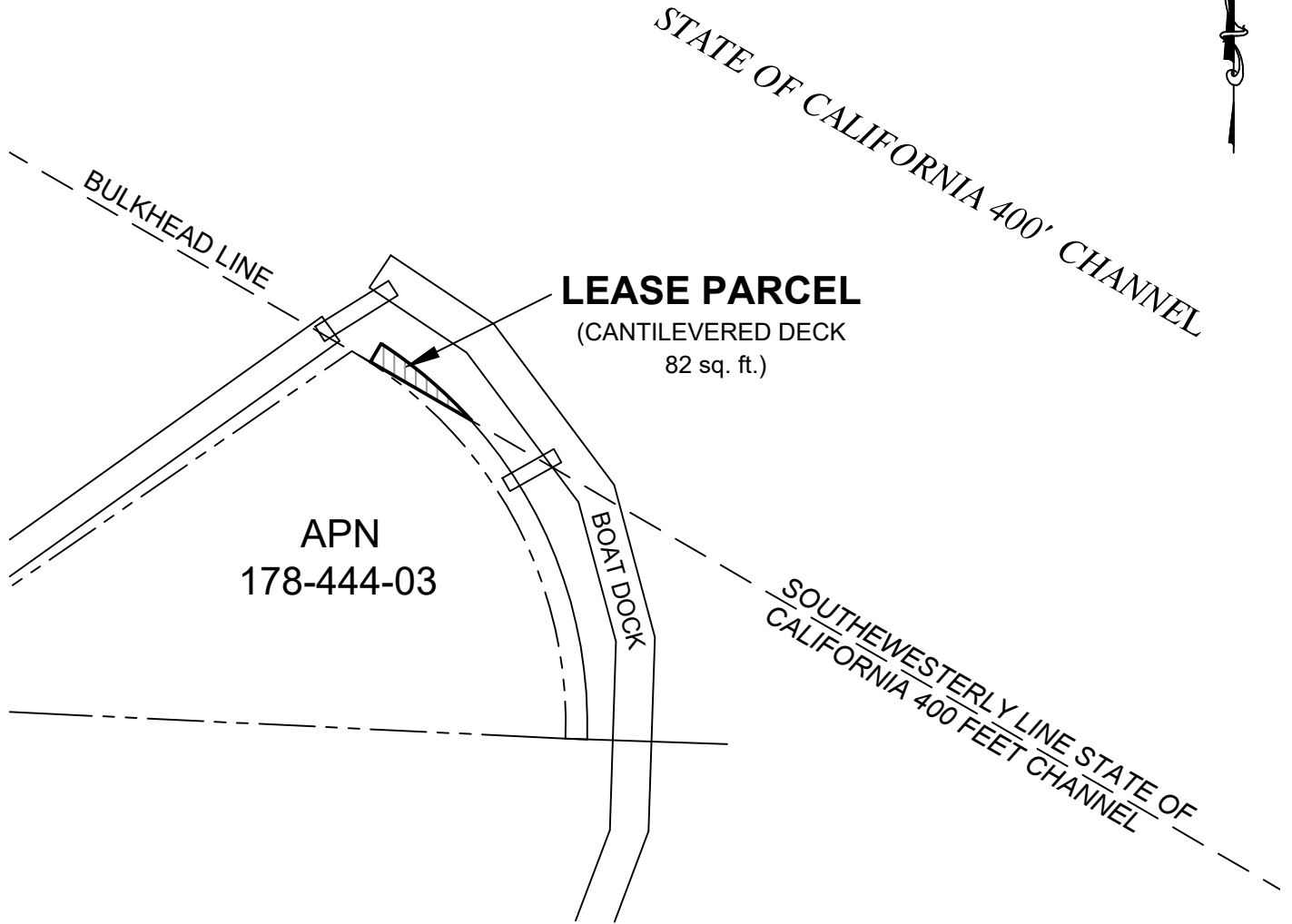
END OF DESCRIPTION

Prepared 04/15/2020 by the California State Lands Commission Boundary Unit



NO SCALE

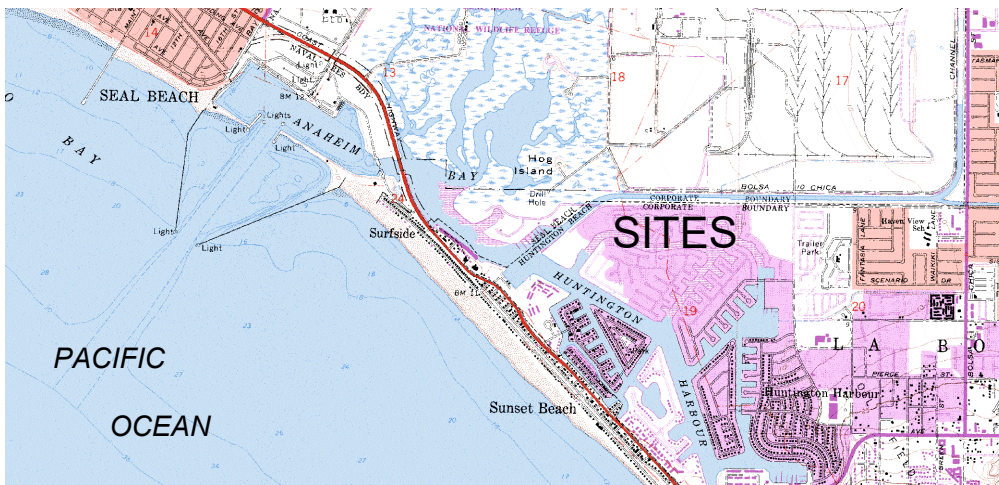
SITE



16402 GRIMAUD LANE, CITY OF HUNTINGTON BEACH

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

LEASE 8881.1
SEBRING
APN 178-444-03
GENERAL LEASE -
RECREATIONAL USE
ORANGE COUNTY



TS 04/15/2020