

Staff Report 27

Assignment of a General Lease – Protective Structure Use

LESSEE/ASSIGNOR:

John C. Laing And Elizabeth A. Laing, as Trustees of the 2000 John C. Laing and Elizabeth A. Laing Revocable Trust Dated August 23, 2000, as Amended and Restated on April 22, 2013

APPLICANT/ASSIGNEE:

Lagom Properties LLC, a California Limited Liability Company

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION:

175 square feet, more or less, of sovereign land located in the Pacific Ocean, adjacent to 4610 Opal Cliff Drive, near Santa Cruz, Santa Cruz County.

AUTHORIZED USE:

Continued use and maintenance of an existing 2-foot-wide cutoff stem wall.

TERM:

10 years, beginning August 22, 2018.

CONSIDERATION:

\$1,260 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, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 3, 2018, the Commission authorized a 10-year General Lease – Protective Structure Use to John C. Laing And Elizabeth A. Laing, as Trustees of the 2000 John C. Laing and Elizabeth A. Laing Revocable Trust Dated August 23, 2000, as Amended and Restated on April 22, 2013 ([Item C40, December 3, 2018](#)). That lease will expire on August 21, 2028.

On July 19, 2019, interest in the upland parcel was deeded to the Applicant. The Lessee and Applicant are now requesting an assignment of the lease, and the Applicant agrees to perform and be bound by the terms, conditions, covenants, and agreements contained within the lease. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel from the Lessee to the proposed Assignee. The assignment would be effective as of the date of transfer, July 19, 2019.

The proposed assignment of the lease will not result in a change in the use of, or impacts to, Public Trust resources. Staff believes approval of this assignment will not substantially interfere with Public Trust needs and values and is in the best interests of the State.

CLIMATE CHANGE:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in the Pacific Ocean, adjacent to 4610 Opal Cliff Drive in Santa Cruz.

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 Monterey tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.2
2050	1.9
2100	6.9

Source: Table 13, 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, fire, drought, extreme heat, 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.

The lease area includes an existing 8-foot-high, 2-foot-thick stem wall located at the toe of the coastal bluff. The stem wall was placed along the bottom of an existing seawall that encases the seaward face of the natural bluff in concrete. The stem wall within the lease area will be vulnerable to the impacts from sea-level rise and more frequent and intense storms that are the result of climate change. The stem wall is likely to degrade over the lease term due to increased exposure to wave action, storm surge, and higher total water levels. Bluff erosion as a result of precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the stem wall from the landward side. Therefore, it may require more frequent maintenance to ensure continued function during and after storm seasons and reduce the risk it poses to public safety in the event the stem wall becomes a source of marine debris or a coastal hazard as a result of dislodgement or structural failure.

The stem wall also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on sovereign land adjacent to the lease area. The beach area seaward of the stem wall is subject to width reduction and loss from erosion, scour, and coastal squeeze (the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure). In addition to the stem wall exerting an artificial influence on the natural landward migration of the beach, it is also a barrier between the naturally eroding bluffs and the

beach, and effectually prevents beach replenishment via natural passive erosion. In general, seawalls increase beach scour at the toes and sides of the walls by reflecting and refracting wave energy back on to the beach with higher force due to their placement and composition. Beach loss is anticipated to increase over the term of the lease because of the combined factors of climate change impacts, natural dynamic coastal processes, and the presence of this stem wall, unless beach replenishment projects are implemented.

The lease is a 10-year General Lease – Protective Structure Use that began on August 22, 2018 and may be subject to the climate change effects of the projected sea-level rise scenario provided above. Assignment of the remaining portion of the 10-year lease term provides both the Commission and the Assignee an opportunity to check in after a relatively short-term interval to review the effects of sea-level rise and evaluate the design and functionality of the existing protection structure in order to make incremental adaptation steps as necessary and appropriate. Pursuant to the proposed lease assignment, the Assignee acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

CONCLUSION:

Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the foreseeable term of the lease. For these reasons, Staff recommends finding that approval of this assignment 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 Lessee may be required to remove the existing stem wall 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; and Strategy 1.2 to provide that the current and future management of ungranted sovereign lands and resources and granted lands, is consistent with

evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning.

3. Assignment of lease is not a project as defined by the California Environmental Quality Act because it is 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).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

AUTHORIZATION:

Authorize the assignment of Lease No. PRC 8793, a General Lease – Protective Structure Use, of sovereign land, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map, (for reference purposes only) attached and by this reference made a part hereof, from John C. Laing And Elizabeth A. Laing, as Trustees of the 2000 John C. Laing and Elizabeth A. Laing Revocable Trust Dated August 23, 2000, as Amended and Restated on April 22, 2013, to Lagom Properties LLC, a California Limited Liability Company, effective July 19, 2019.

EXHIBIT A
LAND DESCRIPTION

PRC 8793

DESCRIPTION OF A 2 FOOT WIDE STRIP OF TIDE AND SUBMERGED LAND, SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AND LYING ADJACENT TO RANCHO ARROYO DEL RODEO, ALSO BEING ADJACENT TO LOTS 17 AND 18 AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED "OPAL CLIFFS SANTA CRUZ COUNTY, CALIFORNIA" FILED FOR RECORD IN VOLUME 25 OF MAPS AT PAGE 12 SANTA CRUZ COUNTY RECORDS; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS; TO WIT

COMMENCING at a found 3/4" iron pipe tagged L.S. 4150 on the northwestern boundary of Opal Cliff Dr. at the most eastern corner of Lot 23 as said iron pipe is shown on that certain map entitled "Record of Survey a portion of the Lands of Phillip E. Karleen, Jr. & Geriann Trustees' Opal Cliffs, filed for record on the 15th day of September 1999 in Volume 96 of Maps at Page 30 Santa Cruz County Records

THENCE FROM SAID POINT OF COMMENCEMENT and along the northwestern boundary of Opal Cliff Drive South 63° 59' West 52.57 feet; thence continuing along said northwestern boundary South 64° 04' West 52.60 feet to a found 3/8" iron pin at the most southern corner of Lot 25 as shown on the abovementioned record of survey map; thence leaving said northwestern boundary, South 26° 01' East 50.09 feet to the southeastern boundary of Opal Cliff Dr. as shown on the above mentioned map of "Opal Cliffs Santa Cruz County, California"; thence along said southeastern boundary North 63° 59' East 13.57' feet to a found 1/2" iron pipe tagged RE 6270 at the Northwestern corner of the lands conveyed to John C. Laing, a married man as his sole and separate property filed for record on the 29th day of January, 2004 in Instrument #2004-0005852 Official Records of Santa Cruz County; thence along the southwestern boundary thereof South 44° 02' East 160.96 feet to the base of an existing seawall and the **POINT OF BEGINNING**

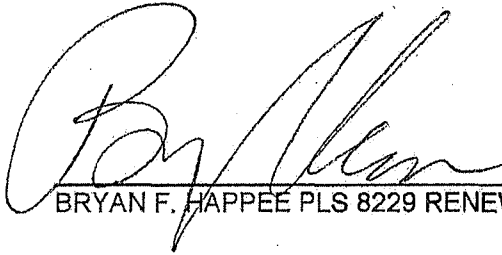
Thence from said **POINT OF BEGINNING** leaving said southwestern boundary of the abovementioned lands of Laing northeasterly along the base of said seawall the following courses and distances; North 61°48' East 19.50 feet; thence North 61°12' East (at 10.12 feet, the northeastern boundary of the aforementioned Lot 18) 15.00 feet; thence North 58° 50' East 13.00 feet; thence North 56° 11' East 14.00 feet; thence North 53°00' East 22.99 feet; thence North 50°21' East 3.09 feet, more or less to a point on the northeastern boundary of the above mentioned Lot 17; thence leaving the base of said seawall and along said northeastern boundary South 44°02' East 2.01 feet; thence leaving said northeastern boundary parallel with and 2.00 feet distant perpendicular from the base of the existing seawall the following courses and distances; South 50°21' West 3.29 feet; thence South 53°00' West 23.10 feet; thence South 56°11' West 14.10' feet; thence South 58°50' West 13.09 feet; thence South 61°12' West (at 4.37 feet, the northeastern boundary of the aforementioned Lot 18) 15.05 feet; thence South 61° 48' West 18.94' feet, more or less to the Southwestern boundary the above mentioned Lot 18; thence northwesterly along said boundary North 44° 02' West 2.08 feet, more or less to the point of beginning;

Excepting therefrom any portion lying landward of the Ordinary High Water Mark.

CONTAINING 175 square feet of land a little more or less.

SURVEYED AND COMPILED IN APRIL 2008 BY BOWMAN & WILLIAMS, CONSULTING CIVIL ENGINEERS, FILE NO. 24082.2.REV2

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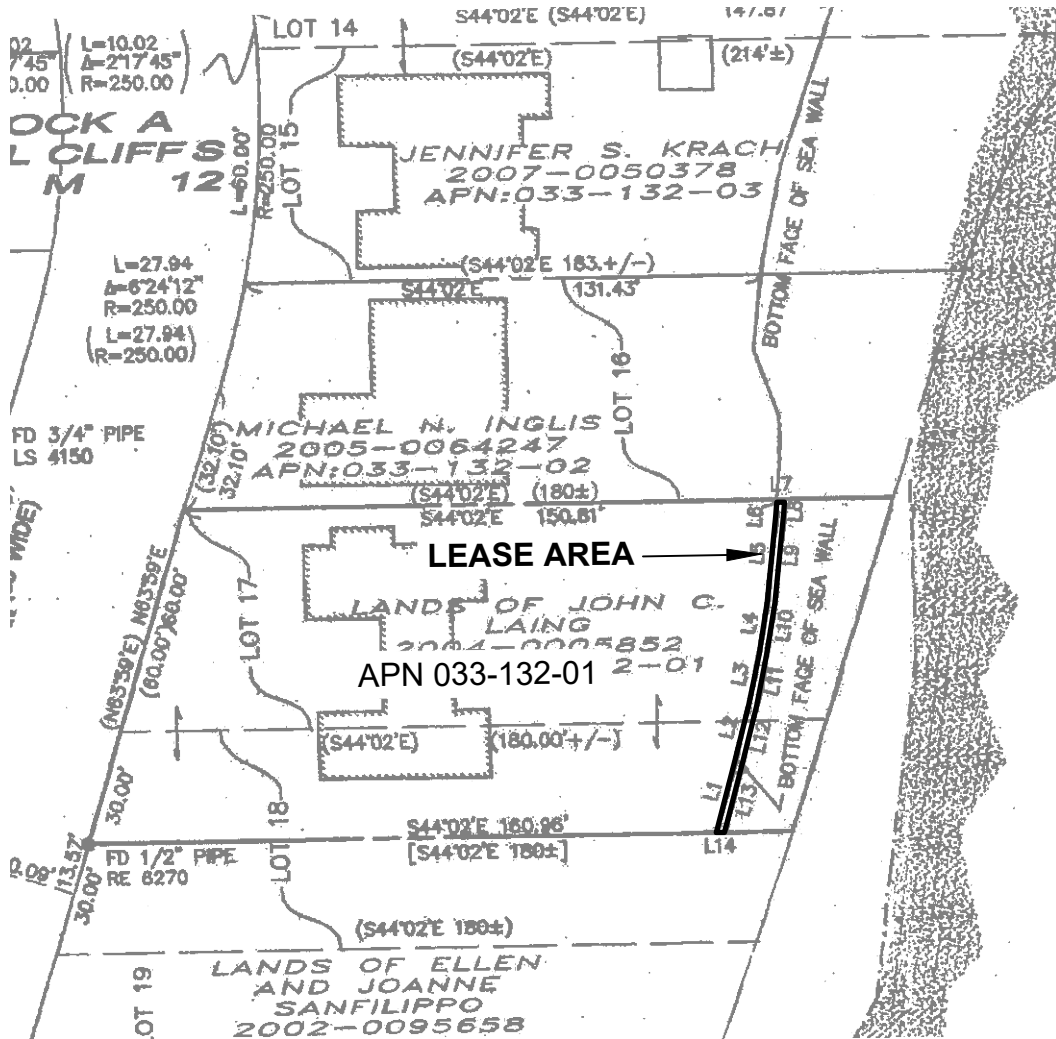

BRYAN F. HAPPEE PLS 8229 RENEWAL DATE 12/31/09



File No. 24082.1.REV3
Drawn By _____
Checked By _____
July 17, 2008
APN 033-132-01
W26283

NO SCALE

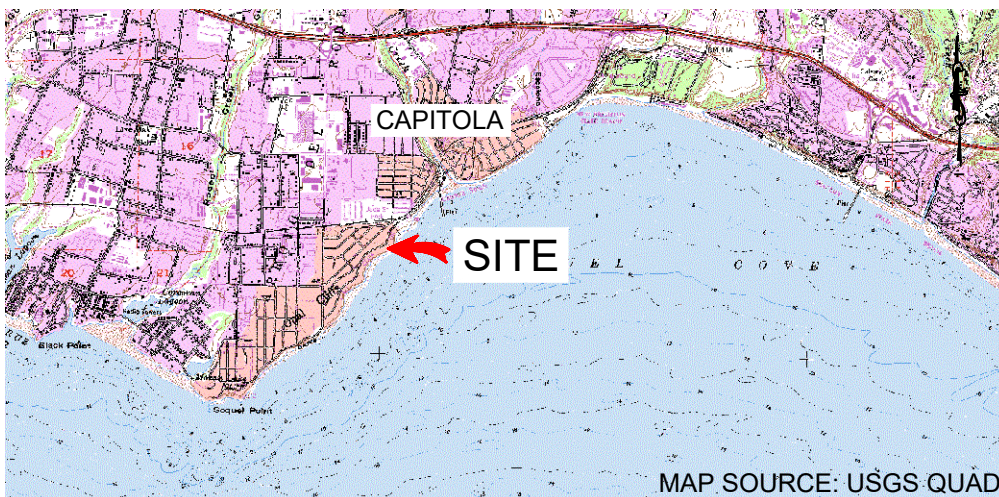
SITE



4610 OPAL CLIFF DRIVE, SANTA CRUZ

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 8793
LAGOM PROPERTIES, LLC.
APN 033-132-01
GENERAL LEASE -
PROTECTIVE
STRUCTURE USE
SANTA CRUZ COUNTY



DJF 7/10/2020