

Staff Report 41

General Lease – Recreational Use

APPLICANT:

Huntington Marina Association

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION

Sovereign land in Huntington Harbour, adjacent to Assessor's Parcel Numbers 178-581-02, 03, 04, and 05, Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of 24 existing boat docks with 38 dinghy docks and 24 access ramps.

TERM:

10 years, beginning August 23, 2020.

CONSIDERATION:

\$24,983 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$2,000,000 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:

On October 29, 2010, the Commission authorized a General Lease – Recreational Use to Huntington Marina Association (Applicant), for the use and maintenance of 24 existing boat docks with dinghy docks and 24 access ramps, beginning August 23, 2010 ([Item C40, October 29, 2010](#)). That lease expires on August 22, 2020. On May 26, 2020, the Applicant submitted an application for a new General Lease – Recreational Use for the 24 existing boat docks with dinghy docks and 24 access ramps.

The subject facilities are privately owned and maintained and have existed at this location within Huntington Harbour for many years. The boat docks and access ramps facilitate recreational boating because they are used for the docking and mooring of boats. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

Huntington Harbour was created in the early 1960s and the adjacent upland parcels are privately owned and developed with residences. There is no public access at these upland properties because the private upland properties directly abut the concrete bulkhead that defines the limits of the channel. The lease area extends along four parcels containing 92 condominium residences adjacent to the Main Channel and leaves the majority of the Main Channel available for navigation and public recreation.

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 thereon. 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 and proposed structures subject to the lease assignment 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. 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. The lease area contains fixed pilings and movable floating docks with attached access ramps. Flooding conditions could cause structures to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation. The floating nature of the movable features will allow them to rise and fall with tides and waves, increasing their resiliency to some sea-level rise impacts, but the fixed features may need to be raised or reinforced to withstand future conditions. Although the bulkhead 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, loss or

degradation of the bulkhead would 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, 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; is consistent with the Public Trust; 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, as prior Lessee, may be required to remove the boat docks and access ramps 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.
3. Staff recommends that the Commission find that issuance of the lease 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 issuance of the lease 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 impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 23, 2020, for a term of 10 years, for 24 existing boat docks with dinghy docks and 24 access ramps, 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 \$24,983, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3288

LAND DESCRIPTION

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

COMMENCING at 1 ½" Iron Pipe marking the southerly corner of Tideland Location No. 141, as shown on Record of Survey Map recorded July 17, 1963, in Book 65 of Maps at Page 28, Records of Orange County; thence N 46°32'00" E 208.95 feet to the beginning of the agreed Ordinary Low Water Mark as described in Boundary Line Agreement 46, said agreement on file at the Sacramento Office of the California State Lands Commission, said point also being the POINT OF BEGINNING; thence along said Ordinary Low Water Mark N 44°15'00" W 417.42 feet; thence N 52°45'00" W 750.25 feet; thence leaving said Ordinary Low Water Mark N 37°15'00" E 57.00 feet; thence S 52°45'00" E 754.49 feet; thence S 44°15'00" E 421.65 feet; thence S 45°45'00" W 57.00 feet to the POINT OF BEGINNING.

END OF DESCRIPTION

The above description is a duplicate of that original description prepared by California State Lands Commission Boundary Unit on 10/06/2010 as found in PRC 3288 file, Calendar Item C40.

Revised on 06/25/2020 by the California State Lands Commission Boundary Unit.



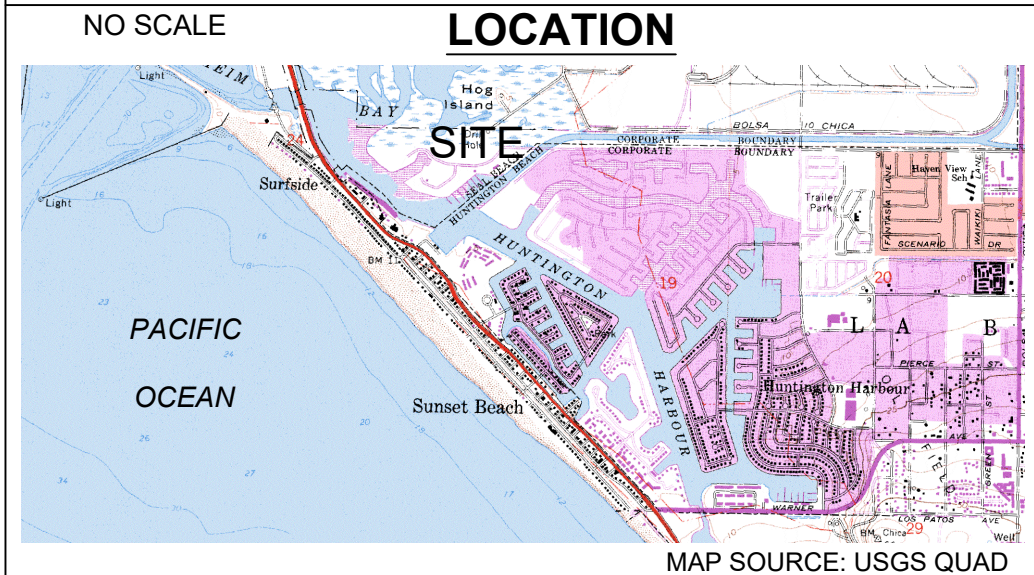
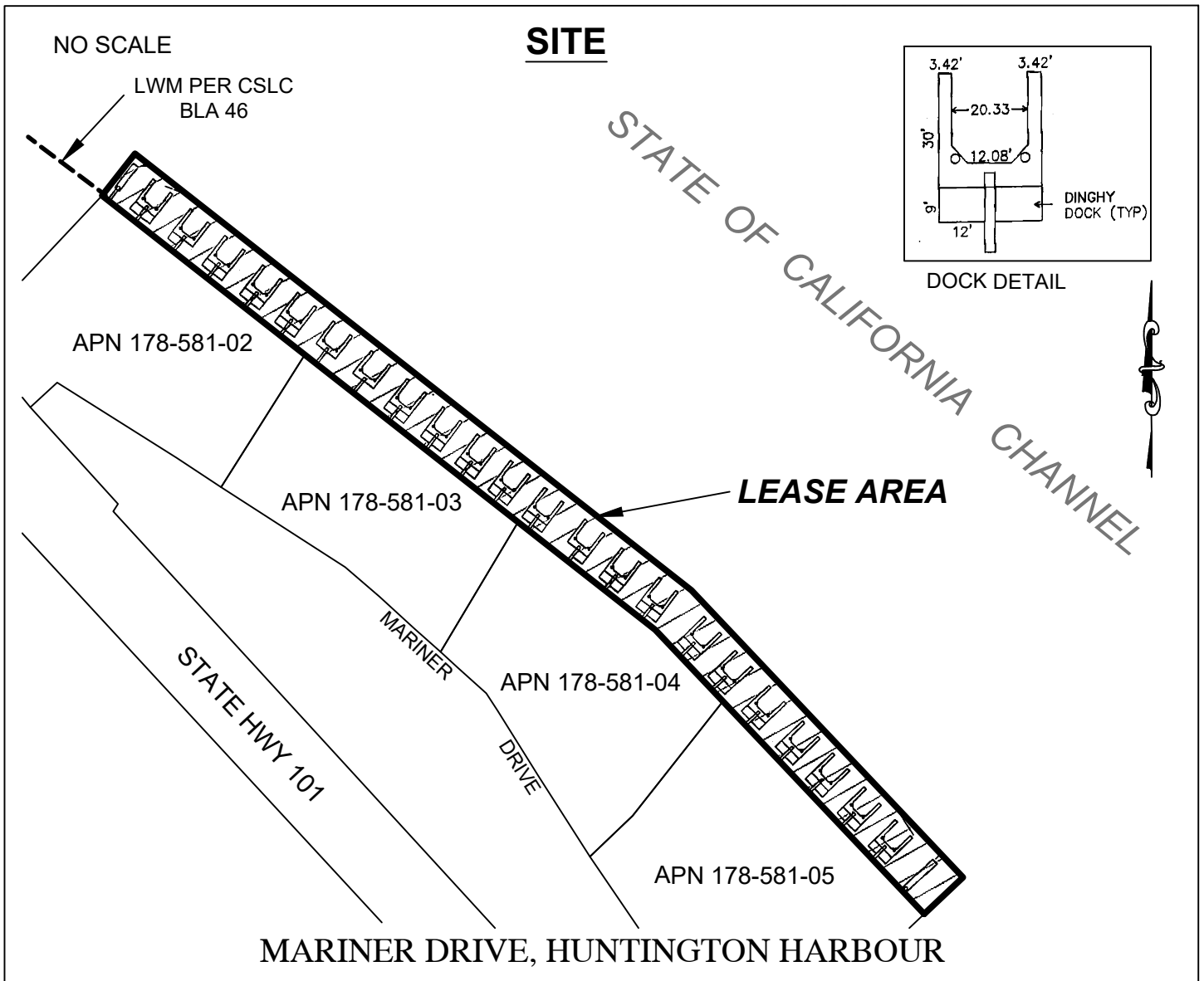


Exhibit B

LEASE 3288

HUNTINGTON MARINA ASSOCIATION

APNs 178-581-02, 03, 04 & 05

GENERAL LEASE - RECREATIONAL USE

ORANGE COUNTY



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.