

# Staff Report 38

## **LESSEE:**

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PG Marina Investors II

## **PROPOSED ACTION:**

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Amendment of a General Lease – Commercial Use

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

Sovereign land located in the Main Channel of Huntington Harbour, Huntington Beach, Orange County.

## **AUTHORIZED USE:**

Operation, use, and maintenance of an existing commercial marina.

## **TERM:**

30 years beginning December 3, 2018.

## **CONSIDERATION:**

\$72,986 per year.

## **PROPOSED AMENDMENT:**

- Amend Section 1, Basic Provisions, Land Use or Purpose, to include installation, use, and maintenance of a new public fishing dock.
- Amend Section 2, Special Provisions to include construction-specific provisions.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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## **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, and 6501.1;  
California Code of Regulations, title 2, sections 2000 and 2003.

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

On December 3, 2018, the Commission authorized the issuance of Lease No. 9525.1, a 30-year General Lease – Commercial Use, for a portion of the existing Peter's Landing commercial marina, to the Lessee ([Item C59, December 3, 2018](#)). The lease will expire on December 2, 2048. The Lessee is now applying for an amendment to the lease to authorize the installation, use, and maintenance of a new 14-foot by 10-foot public fishing dock. An existing dock finger will be widened to become the new fishing dock.

On October 7, 2020, the California Coastal Commission authorized the Lessee to establish public fishing improvements, pocket marsh enhancement, eelgrass planting, and water quality improvements within the existing marina ([Coastal Development Permit \(CDP\) No. 5-18-0875-A1](#)). The CDP for the Peter's Landing project was originally authorized in the late 1970s and required two public fishing piers in the marina. However, the fishing piers were never constructed. The 2020 CDP improvements intend to rectify the issue. The proposed amendment to authorize a new public fishing dock is the only portion of the larger project within the Commission's jurisdiction.

The proposed fishing dock will include a bench, lighting, and fishing line recycling and trash receptacles. The fishing dock will provide lower cost recreational opportunities within Huntington Harbour.

The proposed amendment will not increase the lessee's income generated on the lease premises. Therefore, no change to the consideration is proposed.

Fishing is a water-dependent activity and is consistent with the common law Public Trust Doctrine. Consequently, staff believes that the Public Trust needs, values, and uses within Huntington Harbour will not be impacted by construction and use of the proposed fishing dock.

The proposed lease amendment does not alienate the State's fee simple interest or permanently impair public rights. The lease continues to require the lessee to maintain insurance for the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon; and requires the payment of annual rent as compensation for the use of portion of the commercial marina on State lands. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

**CLIMATE CHANGE:**

Climate change impacts, including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The proposed fishing dock

project is located on the northwest edge of 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, the Bolsa Chica Ecological Reserve, 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 Angeles**

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: 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 features such as the existing pilings and a proposed fishing dock with deck. Flooding

conditions could cause structures to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. The fixed features may therefore need to be raised or reinforced to withstand future conditions. For example, the pilings may be high enough to withstand projected changes in water levels, but additional fortification may be needed if the pilings help anchor electric utility outlets because damage to these pilings could lead to a public safety hazard.

More locally based knowledge of sea-level rise impacts and adaptation strategies will be available to the Applicant 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 amendment, the Lessee 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 that approval of the requested amendment will not substantially interfere with the public rights to navigation and commerce; will enhance the public's ability to fish and promote the Public Trust needs and values at this location; is consistent with the common law Public Trust Doctrine; and is in the State's best interests.

### **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the amendment 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 not install the new public fishing dock. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
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 3, New

Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

## **APPROVAL OBTAINED:**

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California Coastal Commission

## **EXHIBIT:**

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A. Site and Location Map

## **RECOMMENDED ACTION:**

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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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

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

Find that the proposed lease amendment will facilitate the public right to fishing, will not substantially impair the public right to navigation, and will enhance 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 Doctrine; and is in the State's best interests.

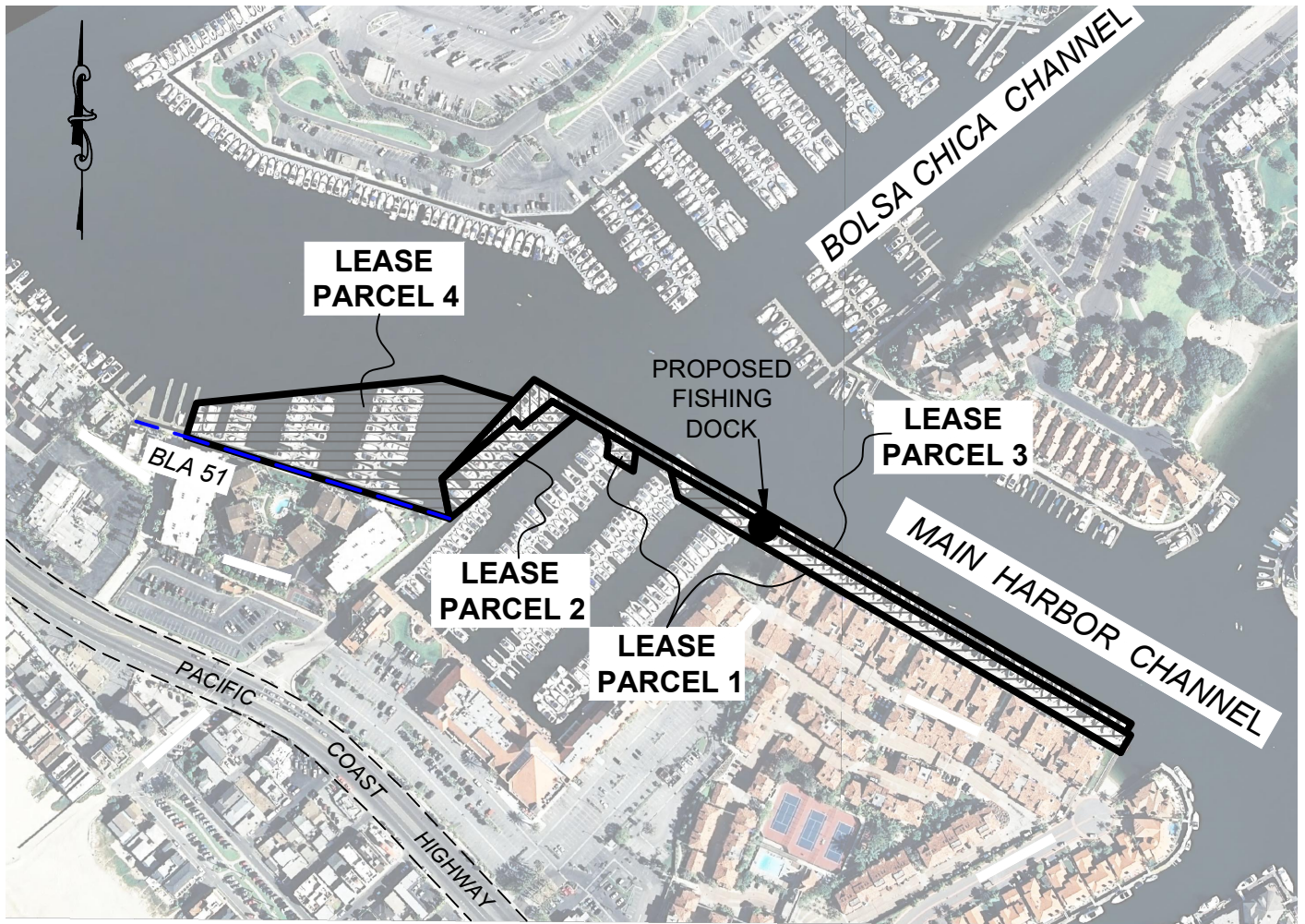
### **AUTHORIZATION:**

Authorize amendment to Lease 9525, a General Lease – Commercial Use, effective April 27, 2021, for the installation, use, and maintenance of a new public fishing dock, as shown on Exhibit A (for reference purposes only) attached and by this reference made a part hereof; all other terms and conditions of the lease will remain in effect without amendment.



NO SCALE

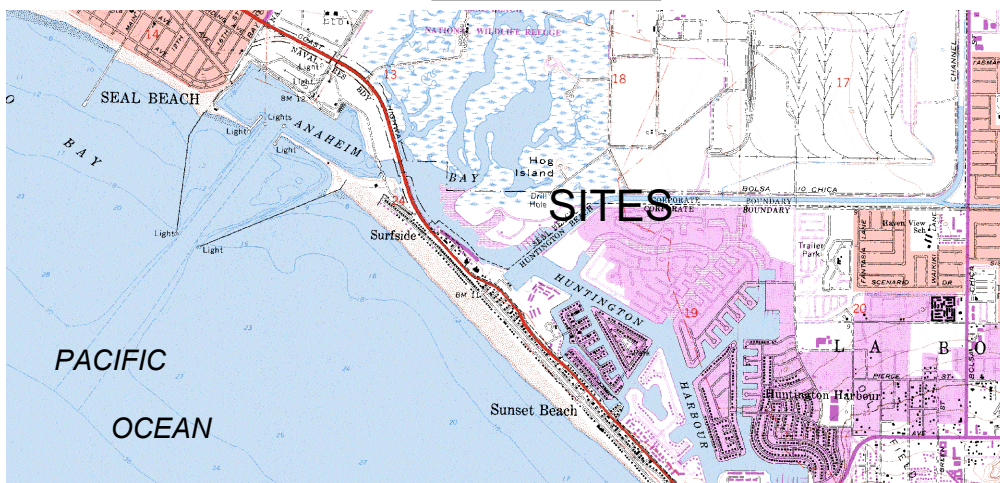
## SITE



PETER'S LANDING MARINA, HUNTINGTON HARBOUR CHANNEL,  
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 A**

LEASE 9525  
PG MARINA INVESTORS II  
APNs 178-023-04, -05, -10  
AND 178-451-07, -10, -13  
GENERAL LEASE -  
COMMERCIAL USE  
ORANGE COUNTY



TS 02/25/2021