

# Staff Report 19

## **APPLICANT:**

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City of Port Hueneme

## **PROPOSED ACTION:**

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Issuance of a General Lease – Public Agency Use

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

Sovereign land in the Pacific Ocean, adjacent to Assessor's Parcel Numbers 207-0-270-025 and 207-0-290-160, city of Port Hueneme, Ventura County.

## **AUTHORIZED USE:**

Operation, use, and maintenance of an existing public recreational pier and appurtenant facilities.

## **TERM:**

25 years beginning May 1, 2021 and ending April 30, 2046.

## **CONSIDERATION:**

Public use and benefit, with the State reserving the right to set a monetary rent if the Commission finds such action to be in the State's best interests.

## **SPECIFIC PROVISIONS:**

- Lessee shall execute a Lease Management Agreement with Lessor to pay for any and all costs and expenditures paid or incurred by the Commission, or its agents, for review and approval of any plan or related materials required herein, including but not limited to any review or preparation of reports, documents, or other actions as required pursuant to the California Environmental Quality Act (CEQA), plan reviews, and/or amendments. Payment by Lessee shall be in a form and manner which is determined by Lessor's staff and is consistent with the requirement of State law.

- Lessee shall conduct structural and utility safety assessment inspection and prepare inspection reports for the improvements, once every four years, during the term of the lease for the improvements in compliance with the American Society of Civil Engineers (ASCE), Manuals of Practice (MOP) 130 – Waterfront Facilities Inspection and Assessment, and the ASCE Standard Practice Manual 101-for Underwater Investigations. Lessee shall provide a copy of the inspection reports, to include any necessary remedial action plan, to Lessor for review and comment.
- Lessee shall provide Lessor with an annual summary report on or before each Lease anniversary date. The report shall include, any local monitoring information required by Lessee or other agencies or entities which relates to sea-level rise vulnerability and adaptation capacity of the Lease Premises and the facilities therein.
- Five years prior to the expiration of this Lease, Lessee shall submit to Lessor a summary report that details resiliency planning efforts and adaptation strategies related to sea-level rise impacts within the Lease Premises. Findings from the utility safety assessment inspection report for the Port Hueneme Pier will also be summarized in the report as well as any emergency repairs made to structures located in the Lease Premises. The contents of this report will enable Lessor and Lessee to assess the effectiveness of these planning efforts in maintaining and enhancing the resiliency of Public Trust resources and values within the Lease Premises subject to the risks associated with sea-level rise and climate change.

## **BACKGROUND:**

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On November 30, 1955, (Item 29) the Commission authorized the issuance of PRC 1560.9, a 49-year Life-of-Structure Permit, to the Port Hueneme Sanitary District (District), for the construction, use, and maintenance of a sewer outfall, and for a pier.

On September 25, 1967, the Commission authorized an amendment of the lease extending the pier an additional 950 feet, effective September 25, 1967 ([Item 50, September 25, 1967](#)). Subsequently, staff became aware that the District had conveyed the existing pier improvements to the City of Port Hueneme (City).

In order to define the two uses as between the City and the District, on November 30, 1967, the Commission authorized the rescission of the pier extension amendment authorized under Lease No. PRC 1560.9, to the District; and authorized the issuance of Lease No. PRC 3844.9, a 49-year Life-of-Structure Permit to the City for the existing

pier and 950-foot extension, beginning November 30, 1967 ([Item 4, November 30, 1967](#)).

On April 27, 1972, the Commission authorized the execution of a Boundary Line Agreement (BLA) with the City, Oxnard-Santa Clara Lemon Association, Leisure-Time Lovers, LP, and other affected parties to establish the boundary line of ownership along a portion of the shore of the Santa Barbara Channel, at Port Hueneme, Ventura County (BLA129); authorized the termination of Lease No. PRC 3844.9, to the City for the existing pier; and authorized the issuance of a new 49-year lease to the City, Lease No. PRC 4661.9, for the existing public recreational pier, beginning May 1, 1972 ([Item 22, April 27, 1972](#)). That lease expired on April 30, 2021. The City has submitted an application requesting a lease for the continued use of the recreational pier.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, section 2000, subdivision (b).

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

The Port Hueneme Pier was originally constructed at its present location in 1956 by the District as a construction trestle used for laying a sewer outfall pipeline. Upon completion of the outfall, the 650-foot pier was opened for public use and ownership in the pier was transferred from the District to the City. The pier was a popular fishing spot for many years until the Army Corps of Engineers commenced their bi-annual beach replenishment project that resulted in a wider beach, but the pier no longer extended into the ocean.

In 1991, repairs to the old section of the pier were conducted; with that section being removed and reconstructed. In 1995, a large storm caused substantial damage to the pier. Due to the damage, the pier was closed for several months for repairs, but the missing wing was not replaced until 1999, when a new, more resilient, hour-glass shaped terminus was constructed, resulting in the pier's present configuration.

Since the pier's original construction in 1957, it has been open to and used by the public primarily as a fishing pier. The pier is operated and maintained by the City and provides public recreational access to the beach and the ocean. Visitors to the pier enjoy fishing opportunities and views of the Channel Islands. Additionally,

the pier is part of the larger 50-acre upland city beach park which provides access to other recreational opportunities including parking, beach access, BBQ and picnic areas, swings, and volleyball nets.

The nature of the lease facilities enhances, promotes, and encourages the use and enjoyment of the State's coastal waters. The Applicant's continued operation of the facilities and use of State land preserves and promotes equitable access, and enhances water-dependent recreational opportunities in the State's coastal waters for the surrounding communities. It is consistent with the common law Public Trust doctrine, the Commission's Strategic Plan, and the goals and objectives of the Commission's 2018 Environmental Justice Policy.

The proposed lease is limited to a 25-year term and does not alienate the State's fee interest or grant the lessee exclusive rights to the lease premises. Upon termination of the lease, lessee may be required to remove all improvements and restore the lease premises to its natural state. Furthermore, the proposed lease will require the lessee to indemnify the State for all liability incurred, directly or indirectly, as a result of its activities on the lease premises.

#### **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 Santa Barbara Channel at Port Hueneme, along a navigable, tidally influenced channel, and may be vulnerable to the impacts of sea-level rise.

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**

<b>Year</b>	<b>Projection (feet)</b>
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. Higher sea levels and more frequent and stronger storm events 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 need to be raised or reinforced to withstand future conditions.

Regular maintenance and reporting requirements, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. As provided in the specific provisions of the proposed Lease, 5 years prior to the expiration of the Lease, the Lessee would be required to submit to Lessor a summary report that details resiliency planning efforts and adaptation strategies related to sea-level rise impacts within the Lease Premises.

### **CONCLUSION:**

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, 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:**

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1. Approval or denial of an application for the use of State sovereign lands are discretionary actions by the Commission. Each time the Commission approves or rejects a use of sovereign land or a revision of rent, it exercises legislatively delegated authority and responsibility as 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 to renewal of any previous lease.

2. This action is consistent with the “Meeting Evolving Public Trust Needs” and “Leading Climate Activism” Strategic Focus Areas of the Commission’s 2021-2025 Strategic Plan.
3. The facilities covered under the proposed lease promote and facilitate access to and the use of the State’s coastal waters by the recreating public; the public pier is maintained by the City of Port Hueneme, is open to the public, and provides free access to the State’s coastal waters and enhanced fishing opportunities and other recreational opportunities in the Pacific Ocean. Outdoor recreation has been proven to have social, economic, and health benefits, which would create a positive impact for many of the surrounding communities. As such, the proposed action advances Goal 1 “Promote Equity”; Goal 3 “Increase and Support Equitable Public Access”; and Goal 6 “Reduce Impacts and Increase Benefits” of the Commission’s 2018 Environmental Justice Policy, adopted at its meeting on December 3, 2018 ([Item 75, December 3, 2018](#)).
4. 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 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:**

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- A. Land Description
- B. 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 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 for the continued operation, use, and maintenance of the public recreational pier is consistent with the common law Public Trust Doctrine and is in the State's best interests.

**AUTHORIZATION:**

Authorize the issuance of a General Lease – Public Agency Use to the Applicant beginning May 1, 2021, for a term of 25 years, for the operation, use, and maintenance of the existing public recreational pier, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right to set monetary rent as if the Commission finds such action to be in the State's best interests.

## EXHIBIT A

LEASE 4661

### LAND DESCRIPTION

A strip of tide and submerged land 228 feet wide, situated in the bed of the Santa Barbara Channel, Pacific Ocean, City of Port Hueneme lying seaward of the Ordinary High Water Mark of 1939 as delineated on that certain map filed in Book 28 of Record of Surveys at Page 76 in Recorder Office of Ventura County, State of California, and being 114 feet on each side of the following described centerline:

COMMENCING at the Station 21 as shown on said map filed in Book 28 of Record of Surveys at Page 76; thence along said Ordinary High Water Mark, North 53° 19' 41" West 405.20 feet; thence North 54° 37' 48" West 397.34 feet; thence North 59° 00' 39" West 585.00 feet to the POINT OF BEGINNING; thence leaving said Ordinary High Water Mark South 34° 57' 50" West 980 feet to the TERMINUS of said centerline.

The sidelines of said strip to be lengthened or shortened as to begin at the Ordinary High Water Mark of 1939 and terminate at the line perpendicular to the described centerline at the TERMINUS of said centerline.

### END OF DESCRIPTION

The above description is based on that original description prepared by on 04/27/1972 as found in PRC 4661 (W 20253) file, Calendar Item 21.

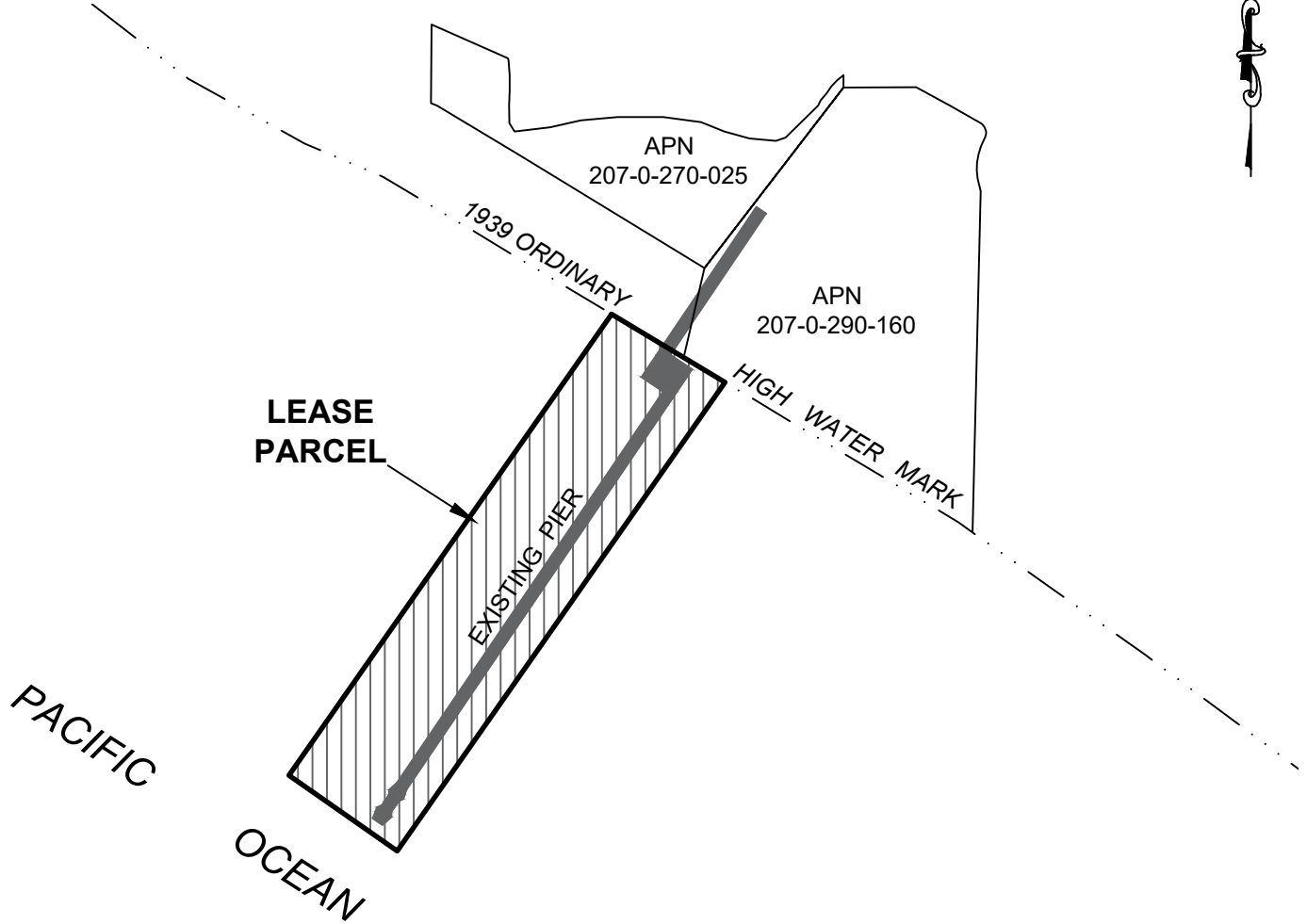
Revised 08/18/2021 by the California State Lands Commission Boundary Unit





NO SCALE

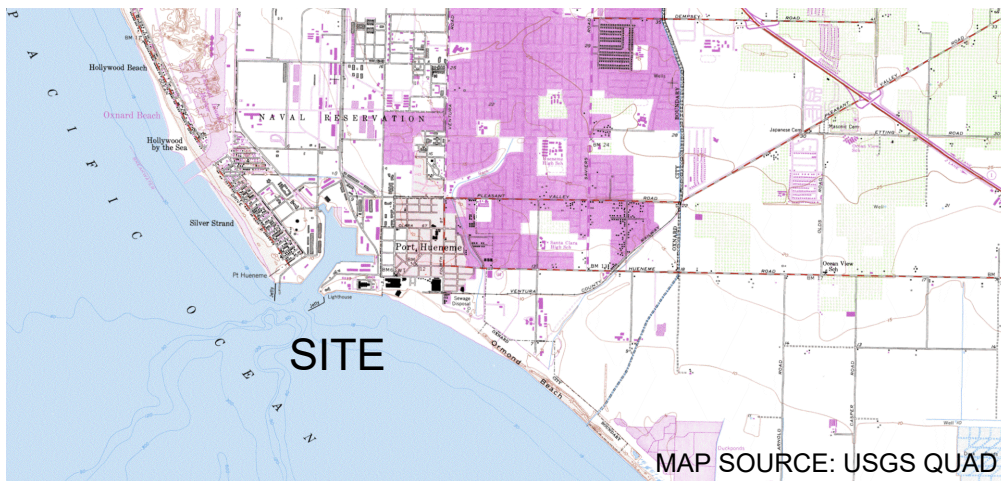
## SITE



PACIFIC OCEAN AT 550 E. SURFSIDE DRIVE, CITY OF PORT HUENEME

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

LEASE 4661  
CITY OF PORT HUENEME  
APNs: 207-0-270-025 &  
207-0-290-160  
GENERAL LEASE -  
PUBLIC AGENCY USE  
VENTURA COUNTY



TS 08/18/2021