

# Staff Report 58

## **APPLICANT:**

---

City of Santa Barbara

## **PROPOSED ACTION:**

---

Issuance of a General Lease – Public Agency Use

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

Sovereign land in the Pacific Ocean, near Santa Barbara, Santa Barbara County.

## **AUTHORIZED USE:**

Operation, use, and maintenance of a portion of the regulated mooring and anchoring program known as the East Beach Mooring/Anchoring Program, consisting of 13 mooring spaces and two open anchor areas outside the City's legislative grant.

## **TERM:**

10 years beginning June 26, 2021 and ending June 25, 2031.

## **CONSIDERATION:**

**Areas A and C (as shown on Exhibit B):** The public use and benefit with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

**Area B:** Rent in the amount of \$3,250 per year for moorings, with an annual consumer price index adjustment; and the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

## **SPECIFIC LEASE PROVISIONS:**

- Insurance: Proof of self-insurance.
- Bond: \$0

- Lessee must implement the Commission's "Best Management Practices for Berth Holders and Boaters" (BMPs) (Lease Exhibit D). Lessee shall post the BMPs in prominent places within the lease premises.
- And, consistent with Section 2 Paragraph 6(f)(2), all permits issued on state sovereign land, both on lands legislatively granted to the City of Santa Barbara and ungranted lands within the Lease Premises, are required to incorporate the BMPs to ensure that permittees also comply.

## **STAFF ANALYSIS AND RECOMMENDATION:**

---

### **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:**

On September 1, 2011 the Commission authorized Lease Number PRC 8688.1, a 10-year General Lease – Public Agency Use, to the City of Santa Barbara (City), for the use and operation of a regulated mooring and anchoring program known as the East Beach Mooring/Anchoring Program (Program), consisting of 13 mooring spaces outside the boundaries of the City's legislative grant, beginning June 26, 2011 ([Item 38, September 1, 2011](#)). The lease expired on June 25, 2021, and the City has applied for a new lease for the continued use of the existing 13 buoys outside its grant.

The City operates the regulated mooring area that encompasses approximately 350 acres of both legislatively granted and ungranted sovereign land, adjacent to East Beach in the Santa Barbara Channel. The City's use of State lands for the Program promotes and facilitates recreational boating because it facilitates the docking and mooring of recreational boats. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine.

The Lease divides the Program's overall area into three areas described in Exhibit A and depicted on Exhibit B. All three areas are required to be under lease because they extend beyond the City's legislative grant into State land under the Commission's leasing jurisdiction.

Area A is an approximately 54.51-acre space, providing year-round anchoring opportunities for public vessels without the need to obtain a permit from the City. Area B can accommodate moorings for up to 13 individually permitted vessels. Area C is an approximately 52.50-acre area providing seasonal anchoring for public vessels without the need for a permit from the City.

Under the proposed lease Area B is subject to annual rent, because the City charges \$250 a year for a designated mooring space permit within Area B. The permit fee is used to offset the cost of Program administration. Areas A and C are open and available for use by the public at no cost, therefore no rent is assessed. The consideration for these areas is the public use and benefit. Through the continued use and operation of the Program, the City hopes to decrease pollution and vessel groundings on nearby East Beach, and seafloor debris.

The City does not maintain mooring tackles at each designated space within Area B. Mooring tackles are placed only once a Mooring space permit has been granted, and is removed when the space is not in use. Mooring permittees are responsible for the purchase and installation of moorings and ground-tackle (i.e., anchoring equipment), which must be installed by a City-certified contractor. Prior to the initial installation of the ground-tackle at the mooring site, a diver will survey the area to ensure there are no sensitive resources within a 25-foot radius of the installation site. Also, as part of the annual maintenance process, the permittee will be required to have the ground-tackle inspected by a City-certified contractor.

The proposed lease promotes access and enhanced recreational opportunities for the surrounding communities and visitors alike. Furthermore, the proposed lease provides additional low cost mooring opportunities in the State's coastal waters and the nature of the lease facilities and use of the lease premises, inherently promote and encourage the use and enjoyment of the State's coastal waters.

The proposed lease is limited to a 10-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, the lessee may be required to remove all improvements and restore the lease premises to its natural state. The proposed lease requires lessee to provide annual reports of all revenues received to ensure the state is adequately compensated for the use of State lands and requires 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, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The facilities are located on the Santa Barbara Channel vulnerable to the projected scenarios 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 Santa Barbara 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 Santa Barbara**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.7
2040	1.1
2050	1.8
2100	6.6

Source: Table 22, State of California Sea-Level Rise Guidance: 2018 Update

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

Additional climate change impacts such as more frequent and stronger winter storm and flooding events may contribute to increased vulnerability throughout the lease area. The increased storm impacts are likely to potentially increase the risk to Public Trust resources and values located within and around the lease area. The combination of increased wave action, storm activity and sea level rise could result in additional damage to the 13 mooring spaces with chains and anchors, seasonal anchoring area, and year-round anchoring area.

The regulated Program adjacent to East Beach provides 48 mooring spaces for individually permitted vessels, and seasonal anchoring opportunities for non-permitted vessels. This Program has started to address climate change impacts by regulating anchoring equipment, so that anchors remain in place and keep vessels anchored during major storms, preventing them from being dislodged and creating beach and ocean floor debris and public navigational and recreational hazards. As part of the Program, the anchors are relocated each year, so the City will need to analyze sea levels relative to anchor chain lengths each year to ensure that the buoys float at the appropriate level as water levels increase.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the applicant acknowledges that the lease premises and adjacent upland are 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 the proposed 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:**

---

1. Approval or denial of an 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. Upon expiration or prior to termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.
2. The Applicant is the Trustee of the adjacent legislatively granted tide and submerged land pursuant to Chapter 78, Statutes of 1925 and as amended, with minerals reserved to the State.
3. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
4. 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:**

Find that the existing and continued use and operation of a portion of the regulated mooring and anchoring program known as the East Beach Mooring/Anchoring Program, consisting of 13 mooring spaces outside the City's legislative grant and within ungranted sovereign land, is consistent with the common law Public Trust Doctrine and is in the State's best interests.

**AUTHORIZATION:**

Authorize the issuance of a 10-year General Lease – Public Agency Use to the City of Santa Barbara beginning June 26, 2021, for the use and operation of a portion of the regulated mooring and anchoring program known as the East Beach Mooring/Anchoring Program, consisting of 13 mooring spaces and two open anchor areas outside the City's legislative grant, as described in Exhibit A, and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for Areas A and C being the public use and benefit, and for Area B, rent in the amount of \$3,250 per year, with an annual Consumer Price Index adjustment.

**EXHIBIT A**

**LEASE 8688**

**LAND DESCRIPTION**

Three Parcels of Submerged Land, situated in the bed of Pacific Ocean, City of Santa Barbara, State of California, more particularly described as follows:

Parcel 1 (Area A)

BEGINNING at a point having geographic coordinates (NAD 83) Latitude North 34°24'52.122", and Longitude West 119°39'50.772", thence South 17°17'09" West, 548.62 feet; thence South 26°29'16" East, 1595.05 feet; thence South 07°46'06" West, 2167.32 feet; thence North 86°16'24" East, 1198.48 feet to the easterly city limit line as described in the City of Santa Barbara Ordinance No. 1066 adopted May 5, 1921; thence along said city limit line North 00°56'44" East, 4166.89 feet; thence leaving said line South 84°32'21" West, 1527.09 feet to the Point of Beginning.

Parcel 2 (Area B)

BEGINNING at a point having geographic coordinates(NAD 83) Latitude North 34°24'44.124" and Longitude West 119°40'37.362", thence North 79°14'59" East, 3986.12 feet; thence South 17°17'09" West, 548.62 feet; thence South 26°29'16" East, 1595.05 feet; thence South 07°46'06" West, 2167.32 feet; thence South 86°27'31" West, 2664.14 feet; thence North 23°15'13" West, 3831.14 feet to the Point of Beginning.

Parcel 3 (Area C)

BEGINNING at a point having geographic coordinates(NAD 83) Latitude North 34°24'39.648" and Longitude West 119°41'05.376", thence South 23°38'01" East, 1826.37 feet; thence South 61°46'17" East, 3232.41 feet; thence North 23°14'28" West, 3842.75 feet; thence South 80°56'48" West, 2089.82 feet to the Point of Beginning.

EXCEPTING THEREFROM any portion of the herein above described parcels lying within the Legislative grant to the City of Santa Barbara as described in Statutes of 1937, Chapter 13 approved January 29, 1937 also being within said city limits as described in said Ordinance No. 1066.

**END OF DESCRIPTION**

