

Staff Report 39

APPLICANT:

City of Seal Beach

PROPOSED ACTION:

Amendment of General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean in the City of Seal Beach, Orange County

AUTHORIZED USE:

Use and maintenance of an existing pier with a lifeguard tower, 750-foot-long concrete sheet pile groin, maintenance building, storage building, restaurant, public restroom, picnic area, raised planter areas with retaining walls, three parking lots, tot lot with a perimeter wall; the construction, use, and maintenance of a seasonal flood control berm to prevent beach run up during winter months; and the seasonal placement, use, and maintenance of temporary lifeguard stations.

TERM:

30 years, beginning June 22, 2016.

CONSIDERATION:

Annual rent in the amount of \$125, with additional consideration being the public use and benefit; with rent reviews conducted on the 10th and 20th anniversary of the lease, or upon any extension or amendment of an existing sublease, or upon execution of a new sublease, as provided in the lease.

PROPOSED AMENDMENT:

- Authorize, by endorsement, a sublease with a 20-year term, beginning February 12, 2018, of a portion of Lease No. 3792, from the City of Seal Beach to The Beach House at the River, LLC, for use and maintenance of a restaurant and restroom.

- Amend Section 1, Authorized Improvements and Land Use or Purpose to include the construction, use, and maintenance of a 600-square-foot patio extension at the **River's End Café**.
- Revise Section 1, Consideration from \$125 per year to \$140 per year, effective June 22, 2022.
- Replace Exhibit C-3, Sublease Endorsement
- Replace Exhibit B, Site and Location Map

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, Title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On February 27, 2018, the Commission authorized Lease 3792, a General Lease – Public Agency Use, and Endorsement of Subleases, to the City of Seal Beach for various improvements located along a 1-mile stretch of Seal Beach, which includes the Seal Beach Municipal Pier ([Item C62, February 27, 2018](#)). The Commission's authorization included various subleases, including endorsement of a sublease from the City of Seal Beach to Bay City LLC, for use and maintenance of a restaurant (**The River's End Café**) and public restroom on sovereign land on West Beach adjacent to the San Gabriel River.

The Lessee is requesting an amendment to the lease to allow for the construction of a 600-square-foot patio extension at the **River's End Café**. The patio extension will expand the outdoor dining area to comply with COVID-19 social distancing mandates. The Lessee also requests that the previous Endorsement of a Sublease with Bay City, LLC, be replaced with a new Sublease Endorsement, to The Beach House at the River, LLC. Bay City, LLC, has assigned its interest in the **River's End Café** to Beach House at the River, LLC, as memorialized in the first amendment of lease between the City of Seal and Beach House at the River, LLC, recorded on March 3, 2020, in the County of Orange.

Additionally, and pursuant to the terms of the lease, a review of the annual rent has been conducted because the Lessee's sublease for the **River's End Café** has been amended. Staff is recommending that the annual rent be increased from \$125 per year to \$140 per year.

The existing lease requires the City to insure the lease premises and indemnify the State. The authorized uses under the lease promote water-related public use of

Public Trust land and provide a variety of visitor-serving amenities to help the public access and enjoy these lands.

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 are located 750 feet from the Pacific Ocean on Seal Beach at the mouth of the San Gabriel River channel at an elevation of approximately 8.3 feet. The lease area is partially protected by a jetty that separates Seal Beach from Anaheim Bay to the north.

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 areas.

The 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 existing restaurant and proposed patio extension are fixed features partially protected by the jetties adjacent to the San Gabriel River; however, the facilities would likely be affected by a 2- to 3-foot increase in sea level rise. Therefore, they may need to be reinforced to withstand future conditions. Currently, the loss or degradation of the property could occur

within the lease area and the surrounding area during storm events. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease amendment and endorsement of sublease are consistent with the common law Public Trust Doctrine; will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; and are in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the lease amendment and endorsement of the sublease 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 construct the patio extension. 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 the "Leading Climate Activism" and the "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Sublease for Existing Restaurant and Restroom: 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 14, section 15301.
4. Construction of Patio Extension: 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 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

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

APPROVALS OBTAINED:

California Coastal Commission
City of Seal Beach

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C-3. Sublease Endorsement

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Sublease for Existing Restaurant and Restroom: 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 14, section 15301.

Construction of Patio Extension: 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 or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment and sublease will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; are consistent with the common law Public Trust Doctrine; and are in the best interests of the State.

AUTHORIZATION:

1. Authorize the amendment of Lease Number 3792, a General Lease – Public Agency Use, effective February 25, 2022, to allow for the construction of a 600-square-foot patio extension, as described in Exhibit A and as shown on Exhibit B (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.

2. Authorize, by endorsement, an existing sublease with a 20-year term, beginning February 12, 2018, of a portion of Lease No. PRC 3792, from the City of Seal Beach to The Beach House at the River, LLC, for use and maintenance of a restaurant and restroom.
3. Revise Section 1, Consideration from \$125 per year to \$140 per year, effective June 22, 2022.
4. Replace Exhibit C-3, Sublease Endorsement, attached and by this reference made a part hereof.
5. Replace Exhibit B, Site and Location Map of the lease, with the attached Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof.

EXHIBIT A

LEASE 3792

LAND DESCRIPTION

A parcel of tide and submerged land, land situate in the bed of San Pedro Bay, lying adjacent to protracted Section 14, T5S, R12W, SBM as shown on the Official Township Plat, approved April 7, 1914, Orange County, State of California, and more particularly described as follows:

COMMENCING at the southeast corner of Tract No. 1 in the City of Seal Beach, County of Orange, State of California, said corner being the intersection of the northeast line of Electric Avenue with the southern line of Seal Way as shown upon the map of said Tract No. 1, recorded in Book 9 of Miscellaneous Maps at Page 1, Orange County Records; thence continuing southwesterly along the southern line of Seal Way as shown on said map to a point which bears easterly along said line N 77°28'25" E 210.68 feet from the intersection of the southerly prolongation of the centerline of Neptune Avenue and the southern line of Seal Way, said point being the POINT OF BEGINNING; thence continuing westerly along the southern line of Seal Way as shown on said map to the westerly boundary of Tract No. 1; thence northwesterly from said point in a direct line 3,584.36 feet more or less to an intersection with the southwesterly prolongation of the centerline of Third Street in the City of Seal Beach as said street is shown upon the map of Tract No. 2, recorded in Book 9 of Miscellaneous Maps at Page 3, records of said county, at a point located 255.5 feet southwesterly from the southwest line of Ocean Blvd.; thence continuing northwesterly along the prolongation of the foregoing course 590.18 feet more or less to the intersection with the southwesterly prolongation of the southeasterly line of First Street (60 feet wide) as shown upon the map of Bay City, recorded in Book 3 of Miscellaneous Maps at Page 19; thence northeasterly along said line of First Street to a point distant 273.93 feet southwesterly from the southwest line of Ocean Blvd.; thence N 58°54' W, 55.32 feet; thence N 22°51' W, 366.64 feet; thence S 18°23'53" W, 124.63 feet; thence S 28°25'47" W, 409.83 feet; thence S 31°34'48" W, 209.45 feet; thence S 26°05'00" W, 274.99 feet; thence S 19°00'57" W, 195.60 feet; thence S 03°07'08" W, 1177.32 feet; thence S 58°43'00" E, 4428.06 feet more or less to an intersection with southwesterly prolongation of the initial course in the description of Parcel 2, as described in the Second Amended Complaint in Condemnation, No. 3436-RJ Civil, United State of America, Plaintiff, vs. 4,783 acres of land, more or less, in Orange County, State of California, et al, filed in the District Court of the United States in and for the Southern District of California, Central Division; thence

northeasterly along said southwesterly prolongation to the POINT OF BEGINNING.

END OF DESCRIPTION

Revised 7/05/16 by the California State Lands Commission Boundary Unit

Revised description based on the {Parcel 1} description found in lease file PRC 2777.1 (W.O. 6568) executed June 22, 1976.



NO SCALE

SITE



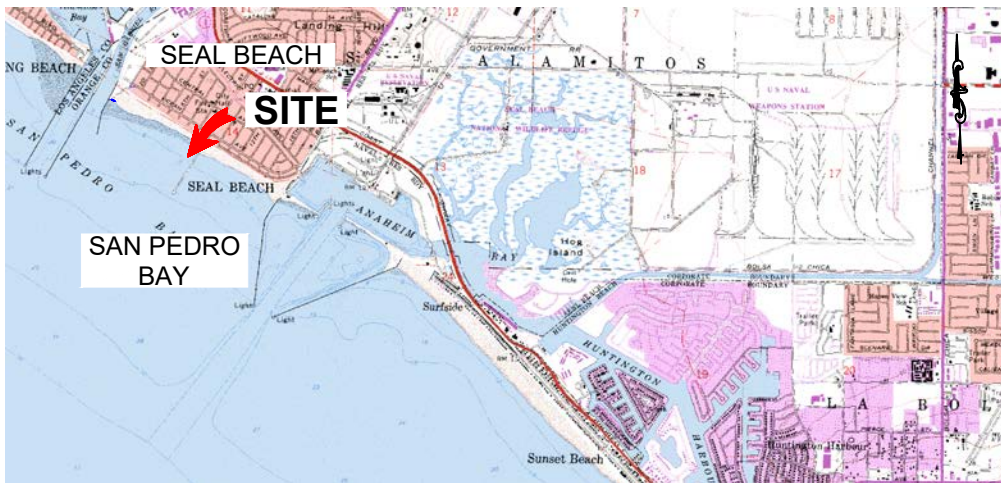
SEAL BEACH

P.A. "A"=
PROPOSED
PATIO AREA
=±500 SQ. FT.

P.A. "B"=
PROPOSED
PATIO AREA
=±100 SQ. FT.

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 3792
CITY OF SEAL BEACH
GENERAL LEASE -
PUBLIC AGENCY USE
ORANGE COUNTY



SITE

MJF 12/27/2021

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 C3

Lease No. PRC 3792

SUBLEASE ENDORSEMENT

State of California
State Lands Commission

Pursuant to Commission Minute Item No. _____ dated February 25, 2022, the herein sublease between, City of Seal Beach and Beach House at the River, LLC, under a portion of State Lease No. PRC 3792, is hereby approved.

By: _____

Robert Brian Bugsch, Chief
Land Management Division