

Staff Report 54

LESSEE/ASSIGNOR:

The Muhs 1992 Partnership, a California general partnership

APPLICANT/ASSIGNEE:

The Muhs 1992 Partnership, LLC, a California limited liability company

PROPOSED ACTION:

Assignment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Main Channel of Huntington Harbour, adjacent to 16901 Bolero Lane, Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, access ramp, and cantilevered deck.

TERM:

10 years; beginning April 28, 2021.

CONSIDERATION:

\$2,061 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to periodically adjust the rent as provided in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 17, 2020, the Commission authorized issuance of a 10-year General Lease – Recreational Use to The Muhs 1992 Partnership, a California general partnership, for an existing boat dock, access ramp, and cantilevered deck ([Item 51, December 17, 2020](#)). That lease will expire April 28, 2031.

On March 9, 2022, the ownership of the upland property was deeded to The Muhs 1992 Partnership, LLC, a California limited liability company, the Applicant. The Applicant, in coordination with the Lessee, is applying for the assignment of Lease No. 3577 to use and maintain the existing boat dock, access ramp, and cantilevered deck in Huntington Harbour for the remainder of the lease period. The effective date of the assignment will be March 19, 2022, to coincide with the completion date for the transfer of title of the upland property.

Based on the Commission's accounting records, the annual rent is paid through April 27, 2023. The Applicant is qualified to hold the lease, and staff has not discovered any information that would provide a basis for withholding the assignment. Thus, staff believes that assigning the lease is in the State's best interest to ensure that a capable lessee is committed to managing the improvements and fulfilling the lease obligations.

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 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 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. 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 need to be raised or reinforced to withstand future conditions. Although the bulkhead underneath the cantilevered deck 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, any 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 referenced in the lease, may reduce the likelihood of severe structural degradation, dislodgement, or hazards from the electrical conduits. Further climate change impact analyses on the leased facilities will be assessed at the time the lease is up for renewal in 2031 and would be based on projected sea level rise scenarios at that time.

CONCLUSION:

Approval of the lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the remaining term of the lease. For these reasons, staff recommends finding that approval of this assignment of lease is in the best interest of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for assignment of lease 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.
2. The Applicant is qualified to hold the lease and staff has not discovered any information that would provide a basis for withholding the assignment. Upon expiration or termination of the lease, neither the Lessee nor the Applicant has any right to a new lease or to renewal of any previous lease. If no new lease is granted, the Lessee may be required to remove the existing boat dock, access ramp, and cantilevered deck and restore the premises to their original condition.
3. This action is consistent with the "Leading Climate Activism" and Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
4. Assignment of the lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number 3577, a General Lease – Recreational Use of sovereign land, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof, from The Muhs 1992 Partnership, a California general partnership, to The Muhs 1992 Partnership LLC, a California limited liability company, effective March 19, 2022.

EXHIBIT A

LEASE 3577

LAND DESCRIPTION

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

BEGINNING at the most southerly corner of Lot 46, as said lot is shown and so designated on that certain map of Tract No. 5264 filed in Book 185, Pages 27 through 34 of Miscellaneous Maps, Official Records of said County; thence along the southwesterly extension of the southeasterly line of said lot 40.00 feet; thence northwesterly and parallel with the southwesterly line of said lot, 50.00 feet to the southwesterly extension of the northwesterly line of said lot; thence northeasterly along said extension, 40.00 feet to the most westerly corner of said lot; thence southeasterly along said southwesterly line of said lot to the **POINT OF BEGINNING**.

END OF DESCRIPTION

Prepared 06/07/22 by the California State Lands Commission Boundary Unit



NO SCALE

SITE

STATE OF CALIFORNIA 400' CHANNEL

LEASE
AREA

50'

40'

EXISTING DOCK

EXISTING
RAMP

EXISTING
CANTILEVERED DECK
175 SQ. FT.

APN 178-315-45

BULKHEAD LINE

16901 BOLERO LANE, HUNTINGTON BEACH

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 3577
THE MUHS 1992
PARTNERSHIP, LLC
APN 178-315-45
GENERAL LEASE -
RECREATIONAL USE
ORANGE COUNTY

