

Staff Report 41

LESSEE/SUBLESSOR:

City of Huntington Beach

SUBLEESSEE:

Surf City Partners, LLC

PROPOSED ACTIONS:

Amendment of lease and endorsement of a sublease.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Pacific Ocean, offshore Huntington Beach, Orange County (as shown in Figure 1).

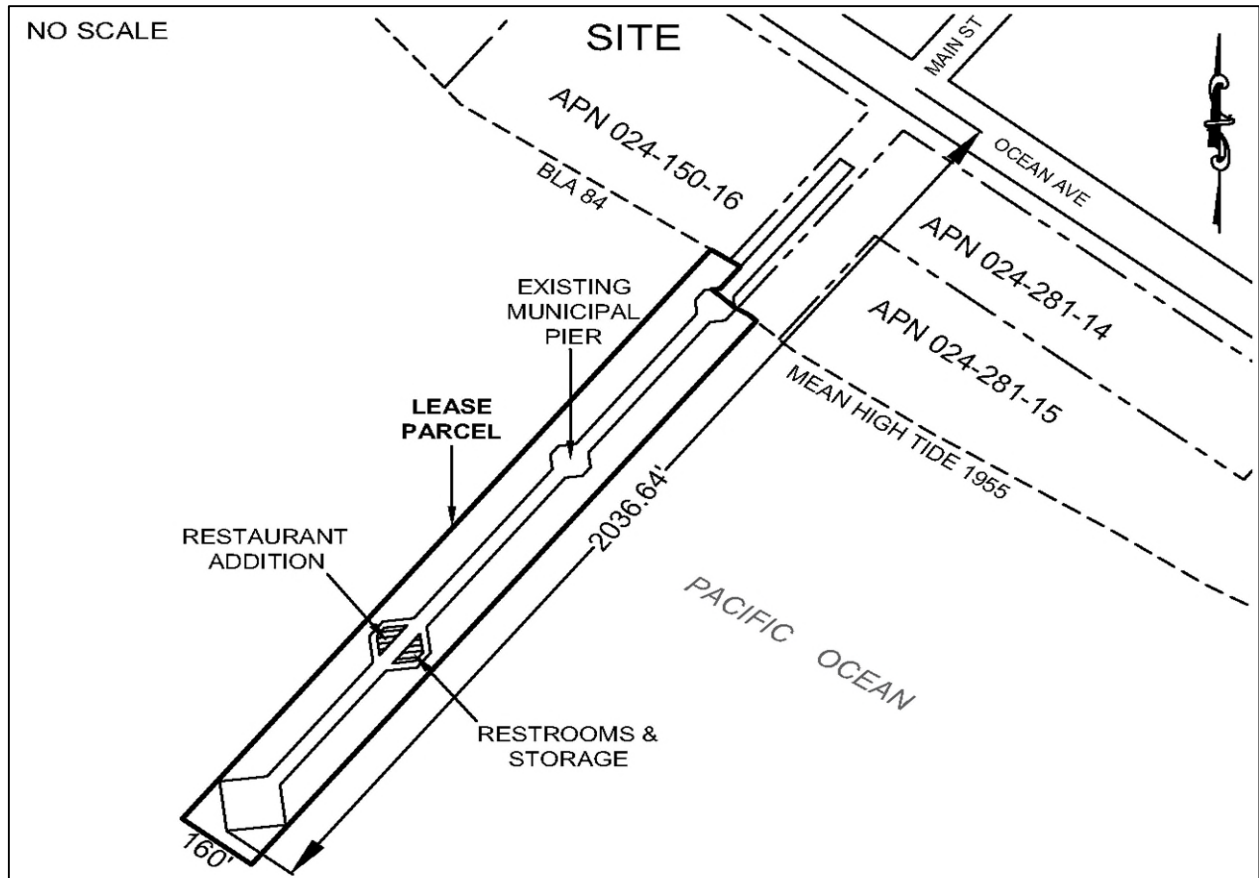
Figure 1. Location



AUTHORIZED USE:

The operation of an existing public municipal pier and related concessions (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

25 years, beginning June 21, 2018.

CONSIDERATION:

Annual rent in the amount of \$140, with additional consideration being the public use and benefit, and with additional rent triggering for any fiscal year in which revenue from the pier exceeds operational expenses; and with the State reserving the right to modify rent if the Commission finds such an action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

- All future structural modifications or material changes to the pier or related concessions, other than routine repairs and maintenance, will require Commission staff's review and approval prior to commencement of construction.
- Lessee shall conduct structural and utility safety assessment inspections of the pier in compliance with the American Society of Civil Engineers Manuals of Practice. Lessee shall provide a copy of inspection reports, including any necessary remedial action plans, to Lessor's staff for review and comment. The first inspection shall be conducted on or before December 31, 2020, and subsequent inspections shall be due every five years thereafter.
- Any sublease approved by Lessor shall be an exception to Section 3, Subparagraph 5(h) of the lease and, to the extent commercial use of the Lease Premises is contemplated by such a sublease, Lessor agrees that such commercial use shall not constitute a default of the lease.
- On September 30th of each year, Lessee shall provide Lessor with an annual report detailing whether expenses for the operation and maintenance of the Lease Premises exceeded the income generated thereon during the preceding fiscal year. Lessee shall pay additional monetary rent for any fiscal year in which the income generated exceeds expenses for operation and maintenance of the Lease Premises. This monetary rent shall be 50 percent of the profit generated (i.e. income minus operation and maintenance expenses).

PROPOSED AMENDMENT:

- Replace the existing Exhibit C-3, Sublease Endorsement, with a new Exhibit C-3, Sublease Endorsement.

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 June 21, 2018, the Commission authorized issuance of a General Lease – Public Agency Use to the Lessee for the operation and maintenance of an existing municipal pier and related concessions in the Pacific Ocean, offshore Huntington Beach, Orange County ([Item 57, June 21, 2018](#)). As part of this action, the Commission also authorized, by endorsement, six sublease agreements between the Lessee and various entities operating businesses on the subject pier. This lease will expire on June 20, 2043.

In May 2023, a fishing supply retailer on the pier, for which the Commission had previously endorsed a sublease, closed its business. Subsequently, the proposed Sublessee requested to sublet the vacant space from the Lessee with the intent of remodeling the facility and opening a new restaurant on the pier. As part of this proposal, and pursuant to requirements included in the California Coastal Commission's Coastal Development Permit (CDP) for the project, the Sublessee has proposed to remodel the former fishing supply shop by renovating the interior, adding a 220 square foot kitchen, adding a walk up take-away window, and installing ten 4-seat tables and four 2-seat tables for general public use outside of the restaurant building with signage clearly stating the public availability of these tables.

Additionally, the proposed project includes remodeling and expanding the existing public restroom across the pier from the proposed restaurant. The proposed restroom project includes a complete remodel of the facility and would increase the existing public restroom by 108 square feet, add a separately accessed 68 square foot ADA public restroom stall, add a 60 square foot changing and restroom area for restaurant employees, add a 220 square foot restaurant storage area, add a 53 square foot trash enclosure area for the restaurant's use, and replace the existing public drinking fountain with two new public drinking fountains.

The proposed restroom remodel also includes adding an 87 square foot bait shop to the existing restroom building that would be operated by the restaurant operator for the life of the restaurant. This bait shop would sell bait and tackle and offer fishing pole rentals to the public. The inclusion of this bait shop ensures the continued availability of recreational fishing supplies to promote Public Trust uses on the pier despite the loss of the former fishing supply shop that the restaurant would be replacing.

Pursuant to lease terms and conditions, the Lessee has supplied staff with plans for the proposed project for review and approval prior to commencing any construction. Staff have reviewed these plans and concluded that, although the proposed project does lead to a slight loss of publicly available pier area due to the larger footprint of the proposed restaurant and upgraded restroom building, the project will ultimately improve the publicly available amenities on the pier without eliminating or significantly impacting Public Trust uses in the area and, as such, provides a net public benefit. Therefore, staff approved of the proposed project in accordance with Section 2, Paragraph 1 of the lease.

The Lessee has applied to amend Lease 6616 to replace the existing Sublease Endorsement with a new Sublease Endorsement for a sublease covering the proposed restaurant and associated facilities. Staff recommend amendment of Lease 6616 and authorization, by endorsement, of the sublease between the Lessee and Sublessee.

The proposed lease, as amended, and sublease endorsement do not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 25-year term, does not grant the lessee exclusive rights to the lease premises, and will have no significant impact on Public Trust-consistent uses or resources in the area. Upon termination of the lease, the lessee may be required to remove any improvements from State land and restore the lease premises to their original condition. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, increased wave activity, storm events, and flooding may impact the existing public municipal pier and related concessions subject to the endorsement of a sublease, which are located on Huntington Beach adjacent to the Pacific Ocean.

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. 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 areas by changing erosion and sedimentation rates. Beaches and coastal landscapes will be exposed to increased wave force and run up, potentially resulting in greater beach erosion than previously experienced.

The lease is a 25-year General Lease – Public Agency Use that began on June 21, 2018, and may be subject to the climate change effects and projected sea level rise scenarios provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further analyses of climate change impact on the leased facilities would be assessed if a new lease is considered in 2043 and would be based on projected climate change and sea level rise scenarios at that time.

CONCLUSION:

For all the reasons above, staff believes amendment of the lease and endorsement of the sublease will not substantially interfere with Public Trust needs at this location, at this time, and for the term of the lease or sublease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the 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 as authorized by law. If the Commission denies the application, the Lessee cannot execute the sublease. The Lessee 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 "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. The most recent structural inspection report for the pier, from October 2023, indicated that the pier is in good condition and had no critical defects or anomalies.
4. **Additions to existing structures:** Staff recommend 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.

New and converted structures: Staff recommend 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 15061.

APPROVAL OBTAINED:

- California Coastal Commission (CDP 5-22-0804)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the endorsement of the sublease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project through the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301, and 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 amendment and endorsement of the sublease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the term of the sublease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the amendment of Lease Number 6616, a General Lease – Public Agency Use, effective February 25, 2025, to replace the existing Exhibit C-3, Sublease Endorsement, with a new Exhibit C-3, Sublease Endorsement; all other terms and conditions of the lease shall remain in effect without amendment.
2. Authorize, by endorsement, a sublease between the Lessee/Sublessor and the Sublessee for facilities and activities located on the Lease Premises. The Sublessee shall name the State as an additional insured for all liability insurance covering its operations within the lease premises.