

**CALENDAR ITEM
C76**

A 78
S 39

06/28/16
PRC 7987.1
D. Simpkin

AMENDMENT OF LEASE

LESSEE:

San Diego Unified Port District

AREA, LAND TYPE, AND LOCATION:

Sovereign land adjacent to Shelter Island, San Diego Bay, San Diego County.

AUTHORIZED USE:

Lease: Breakwater; Maintenance Access Road; Mooring Basin; Marine Terminal, Commercial or Industrial Use; Quarantine Anchorage/No Anchorage Buoys; Small Craft Mooring and Anchorage areas; and Anchorage/Boundary Markers and Buoys.

Subleases: Operation and maintenance of four mooring buoy anchorage areas subleased to the San Diego Mooring Company, LLC.

Use of an access road subleased to the City of Coronado.

LEASE TERM:

28 years, beginning July 1, 1997

CONSIDERATION:

A minimum rent of \$14,965 per year; or the following, whichever is greater: (1) 10% of Lessee's gross income from the Port operated moorings; and (2) 25% of Lessee's gross income from the revenues generated by the four mooring buoy anchorage area subleases; \$100 per year for the operation of a maintenance access road.

PROPOSED AMENDMENT:

On August 26, 1997, the Commission authorized a General Lease – Public Agency Use to the District, to consolidate eight existing leases issued to the District. The SIBLF jetties are included in this lease. The SIBLF was constructed in 1956 and upgraded in 1976. The facilities are in need of repair due to their age and level of public use. The District is now proposing to demolish and

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reconstruct the SIBLF. A portion of the proposed improvements will be located waterward of the U.S. Pierhead line within the Commission's leasing jurisdiction.

The District proposes to amend the lease to:

1. Authorize the demolition and reconstruction of the Shelter Island Boat Launch facility.
2. Revise the special lease provisions to address the proposed demolition, reconstruction, and dredging;

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

The proposed amendment would authorize the San Diego Unified Port District (District) to demolish and reconstruct a portion of the Shelter Island Boat Launch facility (SIBLF). The existing improvements under lease from the Commission at the SIBLF include two breakwaters that protect the existing boat launch facilities from wave action. A portion of the boat launch facilities are on ungranted sovereign land subject to this lease, but the majority of the facilities are on sovereign land legislatively granted to the District pursuant to Chapter 67, Statutes of 1962, as amended.

The SIBLF is a free public boat launching facility with a 10-lane boat launch ramp, docks and gangways, and rock and soil jetties. The District is proposing to remove the existing west jetty and replace it with permanent precast concrete sheet piles. The east jetty will also be extended using concrete sheet piles. The District will also construct two floating docks located on ungranted sovereign land which will include 31 cleats (tie-offs) for day-use docking. In addition, the District will remove approximately 12,300 cubic yards of jetty riprap and jetty core fill, as well as up to a maximum of 300 cubic yards of dredged material from ungranted sovereign land. The District will dredge approximately 700 cubic yards of material from land legislatively granted to the District. A

CALENDAR ITEM NO. **C76** (CONT'D)

portion of the jetty riprap, jetty core fill, and dredged materials will be reused onsite while the remainder will be removed and disposed of at an upland landfill.

The newly constructed jetties will occupy a similar footprint as the existing breakwater and will not substantially interfere with navigation. It is expected that the new jetties will increase public access and water-related recreation because they will include public walkways, and the public will be able to use the floating docks for day-use docking. Once reconstructed, the SIBLF will remain free to the public. Although the facility will be temporarily closed for 13 months during construction, the new facility will include an 80 percent bigger launch basin, the entry and exit point will be larger and a hand-launch watercraft area will be added. The proposed project is consistent with the common law Public Trust Doctrine because the facilities will promote and enhance public water-dependent recreation and navigation.

For all the reasons above, Commission staff believes the authorization of this lease amendment is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.3 of the Commission's Strategic Plan to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. A Mitigated Negative Declaration, State Clearinghouse No. 2015061029, was prepared by the San Diego Unified Port District and approved on January 12, 2016, for this project. Commission staff has reviewed such document.

A Mitigation Monitoring Program was adopted by the San Diego Unified Port District.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

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EXHIBITS:

- A. Site and Location Map
- B. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2015061029, and a Mitigation Monitoring Program were prepared by the San Diego Unified Port District and approved on January 12, 2016, for this Project and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit B, attached hereto.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

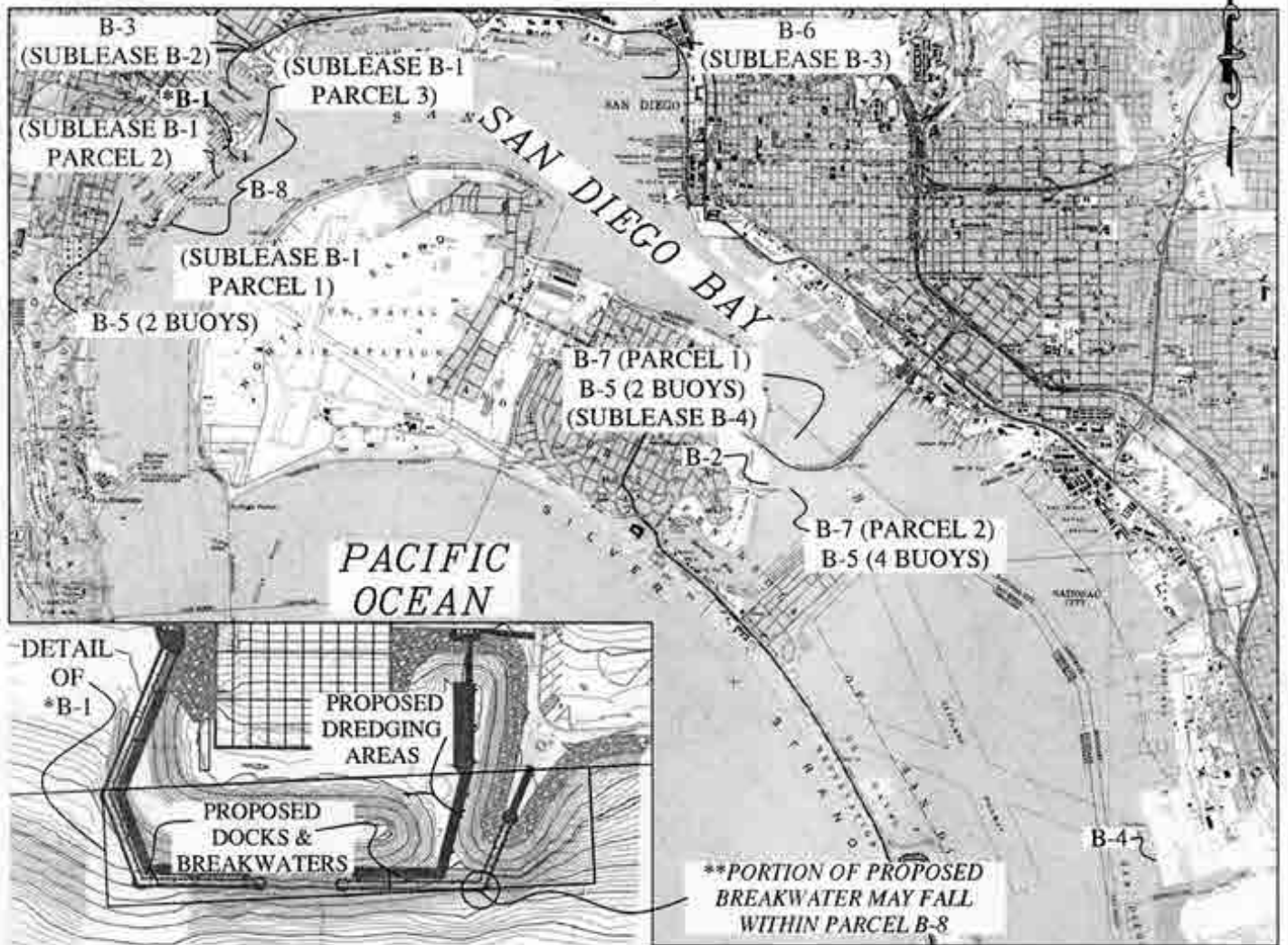
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 7987.1, a General Lease – Public Agency Use, effective June 28, 2016, to allow the demolition and reconstruction of the Shelter Island Boat Launch facility and dredging up to a maximum of 300 cubic yards of material shown on Exhibit A (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.

NO SCALE

SITE



SAN DIEGO, CORONADO & NATIONAL CITY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 7987.1
 SAN DIEGO UNIFIED
 PORT DISTRICT
 GENERAL LEASE -
 PUBLIC AGENCY USE
 SAN DIEGO COUNTY



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
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
SHELTER ISLAND BOAT LAUNCH FACILITY IMPROVEMENTS AND PORT
MASTER PLAN AMENDMENT
(PRC 7987.9, State Clearinghouse No. 2015061029)

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Shelter Island Boat Launch Facility Improvements and Port Master Plan Amendment (Project). The CEQA lead agency for the Project is San Diego Unified Port District.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to discuss feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency has adopted an MND, State Clearinghouse No. 2015061029, and adopted a MMP for the whole of the Project (see Exhibit B, Attachment B-1) and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table B-1 below.

¹ The State CEQA Guidelines are found at California Code of Regulations, Title 14, section 15000 et seq.

Table B-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure²
Biological: Impacts to Eelgrass	CSLC B-1
Biological: Impacts to Sensitive Wildlife	CSLC B-2
Noise: Impacts from Pile Driving	CSLC N-1
	CSLC N-2
Recreation: Impacts to Recreation and Recreational Facilities	CSLC R-1

² See Attachment B-1 for the full text of each mitigation measure taken from the MMP prepared by the CEQA lead agency.

ATTACHMENT B-1

**Mitigation Monitoring Program Adopted by the
San Diego Unified Port District**

Table 2. Shelter Island Boat Launch Facility Improvements Project and Port Master Plan Amendment MND Draft-Mitigation Monitoring and Reporting Program

Mitigation Measure(s)	Responsible Party	Mitigation Timing	Monitoring and Reporting Procedures
Biological Resources			
<p>B-1 Impacts from effects to eelgrass shall be mitigated according to the California Eelgrass Mitigation Policy (CEMP), with replanting of eelgrass at a 1.2:1 ratio (NMFS 2014). Pursuant to the CEMP, pre- and post-construction surveys shall determine the exact amount of eelgrass affected by Project activities. Prior to the commencement of construction, the Project Applicant shall retain a qualified biologist to conduct a pre-construction eelgrass survey per the CEMP to quantify the amount of existing eelgrass within the Project area. The name of the retained contractor and proposed survey plan, including a schedule, shall be submitted to the District before initiation of survey work. A monitoring program consisting of a pre-construction eelgrass survey and three post-construction eelgrass surveys at the impact site and appropriate reference site(s) will be performed (NMFS 2014). The first post-construction eelgrass survey will be completed within 30 days following completion of construction to evaluate any immediate effects to eelgrass habitat. The second post-construction survey will be performed approximately one year after the first post-construction survey during the appropriate growing season. The third post-construction survey will be performed approximately two years after the first post-construction survey during the appropriate growing season. The second and third post-construction surveys will be used to evaluate if indirect effects resulted later in time due to altered physical conditions; the time frames identified above are aligned with growing season (attempting a survey outside of the growing season would show inaccurate results).</p> <p>A final determination regarding the actual impact and amount of mitigation needed at the above-stated ratio, if any, to offset impacts should be made based upon the results of two annual post-construction</p>	District	Pre- and Post-Project construction	District shall conduct surveys and implement the mitigation plan. District shall maintain survey reports in Project files.

CSLC
B-1

Table 2. Shelter Island Boat Launch Facility Improvements Project and Port Master Plan Amendment MND Draft Mitigation Monitoring and Reporting Program

Mitigation Measure(s)	Responsible Party	Mitigation Timing	Monitoring and Reporting Procedures
<p>surveys, which document the changes in the eelgrass habitat (areal extent, bottom coverage, and shoot density within eelgrass) in the vicinity of the action, compared to eelgrass habitat change at the reference site(s). Any impacts determined by these monitoring surveys would be mitigated. Two possible areas for on-site mitigation of eelgrass have been identified generally between the new east dock and the existing east jetty. Before implementation of the mitigation, the Project Applicant shall submit a mitigation plan to the District's Environmental and Land Use Management department and resource agencies for review and approval.</p>			
<p>B-2 To mitigate potentially significant impacts to sensitive fish species, bird species, eastern Pacific green sea turtles, and marine mammals to less than significant, the following measures shall be implemented:</p> <ol style="list-style-type: none"> 1. An on-site biological observer shall be present during pile driving activities with the authority to stop construction if a <u>sensitive fish species</u>, green sea turtle, or marine mammal approaches or enters the shutdown zone. The shutdown zone is the area within 10 meters of construction activities or inside the 190 dB rms isopleths for green sea turtle, and marine mammal cetaceans or 180 dB rms for marine mammal pinnipeds. Prior to the start of pile-driving activities, the biological observer shall monitor the shutdown zone for 15 minutes to ensure that <u>sensitive fish species</u>, green sea turtles, and marine mammals are not present. If a <u>sensitive fish species</u>, green sea turtle, or marine mammal approaches or enters the shutdown zone during the pile-driving activities, the biological observer shall notify the construction contractor to stop the activity. The pile-driving activities shall be stopped and delayed until the biological observer visually confirms either that the animal has voluntarily left the shutdown zone 	District	During Project construction	District shall implement the mitigation plan. District shall maintain monitoring reports in Project files.

CSLC
B-1
(continued)

CSLC
B-2

Table 2. Shelter Island Boat Launch Facility Improvements Project and Port Master Plan Amendment MND Draft-Mitigation Monitoring and Reporting Program

Mitigation Measure(s)	Responsible Party	Mitigation Timing	Monitoring and Reporting Procedures
<p>and is beyond the shutdown zone, or 15 minutes have passed without re-detection of the animal. If the on-site biological observer determines that weather conditions prevent the visual detection of <u>sensitive fish species</u>, green sea turtles or marine mammals in the shutdown zone, such as heavy fog, in-water construction activities with the potential to result in Level A Harassment (injury) shall not be conducted until conditions change.</p> <p>2. Biological monitoring shall be conducted by qualified observers. The observer shall be placed in the best vantage point practicable to monitor, and when applicable, shall communicate directly with the construction superintendent and/or hammer operator.</p> <p>3. During all observation periods, observers shall use binoculars and the naked eye to scan continuously for <u>sensitive fish species</u>, green sea turtles, and marine mammals. As part of the monitoring process the observer shall collect sighting data and behavioral responses to construction from <u>sensitive fish species</u>, green sea turtles, and marine mammals observed in the Project area of activity during the period of construction. The observer shall record any <u>sensitive fish species</u>, marine mammal, green sea turtle, or California least tern sightings, and submit the sighting records to the District within 60 days of the completion of the mitigation monitoring with a summary of observations.</p>			
Hazards and Hazardous Materials			
<p>T-1 Construction truck traffic hauling sediment or materials to or from the Project site shall not occur between the AM peak hours of 7 a.m. and 9 a.m, and shall be limited to no more than five loads per hour during the PM hours of 4 p.m. to 6 p.m. The Project Applicant shall include this restriction in the construction specification documents for the Project. Prior to issuance of the</p>	District and Contractor	During Project construction	District shall place truck hauling restrictions in bid specifications. Contractor shall maintain hauling/delivery logs on the site.

CSLC
B-2
(continued)

Table 2. Shelter Island Boat Launch Facility Improvements Project and Port Master Plan Amendment MND Draft-Mitigation Monitoring and Reporting Program

Mitigation Measure(s)	Responsible Party	Mitigation Timing	Monitoring and Reporting Procedures
<p>construction specification documents for bid, the Project Applicant shall submit a copy of the construction specification documents to the District's Environmental and Land Use Management department for approval. The contractor shall maintain hauling/delivery logs on the site for the District's review, and the Project Applicant shall submit a copy of the contractor's hauling/delivery logs to the District's Environmental and Land Use Management department for review.</p>			
Noise			
<p>N-1 To avoid noise impacts from impact-type pile driving, vibratory-type pile driving techniques or other quieter methods, such as jetting, shall be used in place of impact-type pile driving to the extent feasible. The Project Applicant shall include this measure in the construction specification documents for the Project. Prior to issuance of the construction specification documents for bid, the Project Applicant shall submit a copy of the construction specification documents to the District's Environmental and Land Use Management department for approval.</p>	District and Contractor	During Project construction	District shall place use of alternative pile-driving methods in bid specifications. District shall review contractor construction methods.
<p>N-2 If impact-type pile driving construction techniques cannot be avoided, the use of all passive recreational areas shall be restricted within a distance of 777 feet from the pile driving activity during all impact-type pile driving activities. Prior to the commencement of impact-type pile driving activities, the Project Applicant shall cordon off and post public notices informing of the construction activity in all public recreational areas within a distance of 777 feet from the pile driving activity. The Project Applicant shall include this measure in the construction specification documents for the Project. Prior to issuance of the construction specification documents for bid, the Project Applicant shall submit a copy of the construction specification documents to the District's Environmental and Land Use Management department for approval. Prior to the commencement of impact-type pile driving</p>	District and Contractor	During Project construction	District shall place recreational use restrictions in bid specifications. Project Applicant shall submit documentation demonstrating compliance with this measure.

CSLC
N-1

CSLC
N-2

Table 2. Shelter Island Boat Launch Facility Improvements Project and Port Master Plan Amendment MND Draft-Mitigation Monitoring and Reporting Program

Mitigation Measure(s)	Responsible Party	Mitigation Timing	Monitoring and Reporting Procedures
activities, the Project Applicant shall submit documentation to the District's Environmental and Land Use Management department demonstrating compliance with this measure.			
Public Services			
See Mitigation Measures B-1, B-2, N-1, N-2, and T-1	See Mitigation Measures B-1, B-2, N-1, N-2, and T-1	See Mitigation Measures B-1, B-2, N-1, N-2, and T-1	See Mitigation Measures B-1, B-2, N-1, N-2, and T-1
Recreation			
See Mitigation Measures B-1, B-2, N-1, N-2, and T-1	See Mitigation Measures B-1, B-2, N-1, N-2, and T-1	See Mitigation Measures B-1, B-2, N-1, N-2, and T-1	See Mitigation Measures B-1, B-2, N-1, N-2, and T-1
Transportation/Traffic			
<p>T-1 Construction truck traffic hauling sediment or materials to or from the Project site shall not occur between the AM peak hours of 7 a.m. and 9 a.m, and shall be limited to no more than five loads per hour during the PM hours of 4 p.m. to 6 p.m. The Project Applicant shall include this restriction in the construction specification documents for the Project. Prior to issuance of the construction specification documents for bid, the Project Applicant shall submit a copy of the construction specification documents to the District's Environmental and Land Use Management department for approval. The contractor shall maintain hauling/delivery logs on the site for the District's review, and the Project Applicant shall submit a copy of the contractor's hauling/delivery logs to the District's Environmental and Land Use Management department for review.</p>	District and Contractor	During Project construction	District shall place truck hauling restrictions in bid specifications. Contractor shall maintain hauling/delivery logs on the site.

CSLC
N-2
(continued)

CSLC
R-1