

**CALENDAR ITEM
C60**

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06/22/17
PRC 4006.9
L. Pino

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of Seal Beach

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Anaheim Bay, near the Sunset Aquatic Regional Park, city of Seal Beach, Orange County.

AUTHORIZED USE:

Right-of-way for the continued operation and maintenance of an existing 10-inch-diameter water line and a 6-inch-diameter non-operational sewer line.

LEASE TERM:

25 years, beginning August 28, 2017.

CONSIDERATION:

The public health and safety, with the State reserving the right to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

- Lessee is required to conduct a burial depth survey to ensure that minimum burial depth is consistent with as-built plans specified depth of 5 feet. The first survey shall be conducted on or before August 28, 2019, with subsequent surveys being conducted every 5 years.
- Should an emergency situation occur that requires the lessee to immediately return the sewer pipe to an operating condition in order to maintain public health and safety, lessee shall notify lessor of the change in operational status and within 30 days shall submit an application for an amendment to authorize pipe operation.

CALENDAR ITEM NO. **C60** (CONT'D)

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.

Background and Lease History:

On August 28, 1968, the Commission authorized Public Agency Permit No. PRC 4006.9, a 49-year Public Agency Permit – Right-of-Way Use, to the Orange County Harbor District (District) for the construction, operation, and maintenance of a 6-inch-diameter sewer line and a 10-inch-diameter water line in Anaheim Bay near the Sunset Aquatic Regional Park (Park), city of Seal Beach, Orange County ([Calendar Item 5, August 28, 1968](#)).

On January 7, 1970, the Commission authorized the assignment of PRC 4006.9 from the District to the City of Seal Beach (City). ([Calendar Item C45, January 7, 1970](#)). This Permit will expire on August 27, 2017. The City is now applying for a General Lease – Public Agency Use to allow for the continued operation and maintenance of the two pipelines on State land.

Orange County acquired the 63-acre Park from the U.S. Navy in 1963. The Park provides restrooms, picnic areas, and recreational space for the public. The Park also includes a marina with boat ramps and 276 boat slips. Although located within the corporate boundaries of the City, the Park is segregated from the main city area by a wildlife refuge and naval weapons station.

The lease area contains a 6-inch-diameter non-operational sewer line along with a 10-inch-diameter water line buried parallel and in close proximity to the sewer line. The current burial depth of the two pipelines is unknown; the last known depth is based on the as-built plans dated 1968, prepared by VTN, a private engineering firm, that show a burial depth of 5 feet. However, the lease requires that a burial depth survey be conducted on or before August 28, 2019, and subsequent surveys every 5 years on or before August 28.

The 6-inch-diameter sewer line is currently non-operational. Sewer service for the Park's public restrooms and marina, as well as the Orange County Harbor Patrol, have been redirected from the Seal Beach sewer collection system to the Huntington Beach sewer collection system. However, the City wishes to continue to maintain the sewer line as an emergency backup system. Prior to any planned future use, the City will inspect the

CALENDAR ITEM NO. **C60** (CONT'D)

line, make any necessary repairs, and apply for an amendment to the lease.

The 10-inch-diameter water line is still in operation and provides water services to the Park's public restrooms, drinking fountains, and marina, as well as the Orange County Harbor Patrol and the naval weapons station adjacent to the Park.

Public Trust and State's Best Interests Analysis:

The proposed lease would allow for the City's continued use and maintenance of the two pipelines to support public health and safety by providing running water and, if needed, emergency sewer facilities to the public Park. The proposed lease would also continue water service to the Naval Weapons Station.

Based on the as-built plans provided by the City, dated 1968, the two pipelines were buried approximately 5 feet below ground and currently have no known impact to navigation, fishing, recreational boating, or other Public Trust purposes at this location and are therefore not inconsistent with Public Trust needs and values at this location at this time. Additionally, the water pipeline provides fresh water services to the marina and enhances Public Trust-consistent uses of the adjacent waterway such as recreational boating.

The proposed lease is limited to a 25-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land. The proposed lease requires the lessee to insure the lease premises and 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 scouring of the channel floor from wave activity, storm events, and flooding are not limited to the open coast. The lease area is located within Anaheim Bay in Seal Beach and may be vulnerable to the impacts of sea-level rise. The lease area contains a non-operational 6-inch-diameter sewer line and a 10-inch-diameter water line buried parallel and in close proximity. Increased scouring of the channel floor over time caused by climate change could expose these pipelines.

The lease area is located near the Park, which may also be vulnerable to climate change impacts; such as, flooding and storm surge events

CALENDAR ITEM NO. **C60** (CONT'D)

because the Park may be similar in elevation to the adjacent Huntington Harbour that is built at near sea-level elevation.

The Seal Beach National Wildlife Refuge wetlands and Bolsa Chica wetlands nearby could act as natural buffers to storm surges and lessen flood risks. Compared to year 2000 levels, the region could see up to 1 foot of sea-level rise by the year 2030, 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). As stated in *Safeguarding California* (California Natural Resources Agency 2014), 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).

In tidally influenced waterways such as Anaheim Bay, 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, 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.

Conclusion:

For all the reasons above, Commission staff believes the issuance of this 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 State's best interests.

OTHER PERTINENT INFORMATION:

1. The proposed action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest level of public health and safety in the production, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. 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.

CALENDAR ITEM NO. **C60** (CONT'D)

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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

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).

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 sections 6370 et seq.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the City of Seal Beach beginning August 28, 2017, for a term of 25 years, for the continued operation and maintenance of an existing 10-inch-diameter water line and a 6-inch-diameter non-operational sewer line, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public health and safety, 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 interests.

EXHIBIT A

PRC 4006.9

LAND DESCRIPTION

An easement for sewer and water lines over 20.00-foot strip of tide and submerged land in the Northeast Quarter of Section 24, Township 5 South, Range 12 West, S.B.M., in the County of Orange, State of California, lying 10.00 feet on each side of the following described centerline:

COMMENCING at a point in the centerline of construction of California State Highway known as Pacific Coast Highway, as shown on map filed in Book 14, Page 36, of Records of Surveys of said Orange County, said point being at the Northwesterly terminus of the course shown on last mentioned map as "S 43° 28' E 1113.88 feet" and being marked by PK nail and washer marked 126+90.25 back, 122+05.92 ahead and shown in California Division of Highways field Book No. A0R001E, Page 0307, dated March 1, 1967; thence along the Northwesterly prolongation of said centerline North 43° 28' 00" West 410.76 feet; thence North 71° 32' 49" East 252.87 feet, more or less, to a point in the Northeasterly line of Location No. 141 State Tide Lands described in Patent issued April 4, 1901, as shown on map recorded in Book 3, Page 45, Records of Surveys of said Orange County, said point being the POINT OF BEGINNING; thence North 71° 32' 49" East 669.75 feet; thence South 53° 03' 51" East approximately 1000 feet to the east line of said Section 24 and the TERMINUS of said centerline.

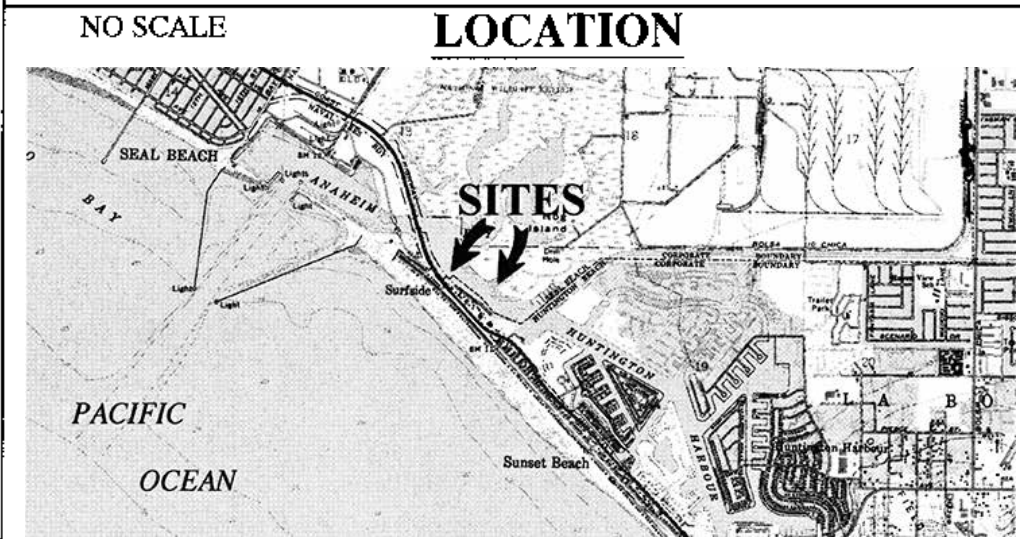
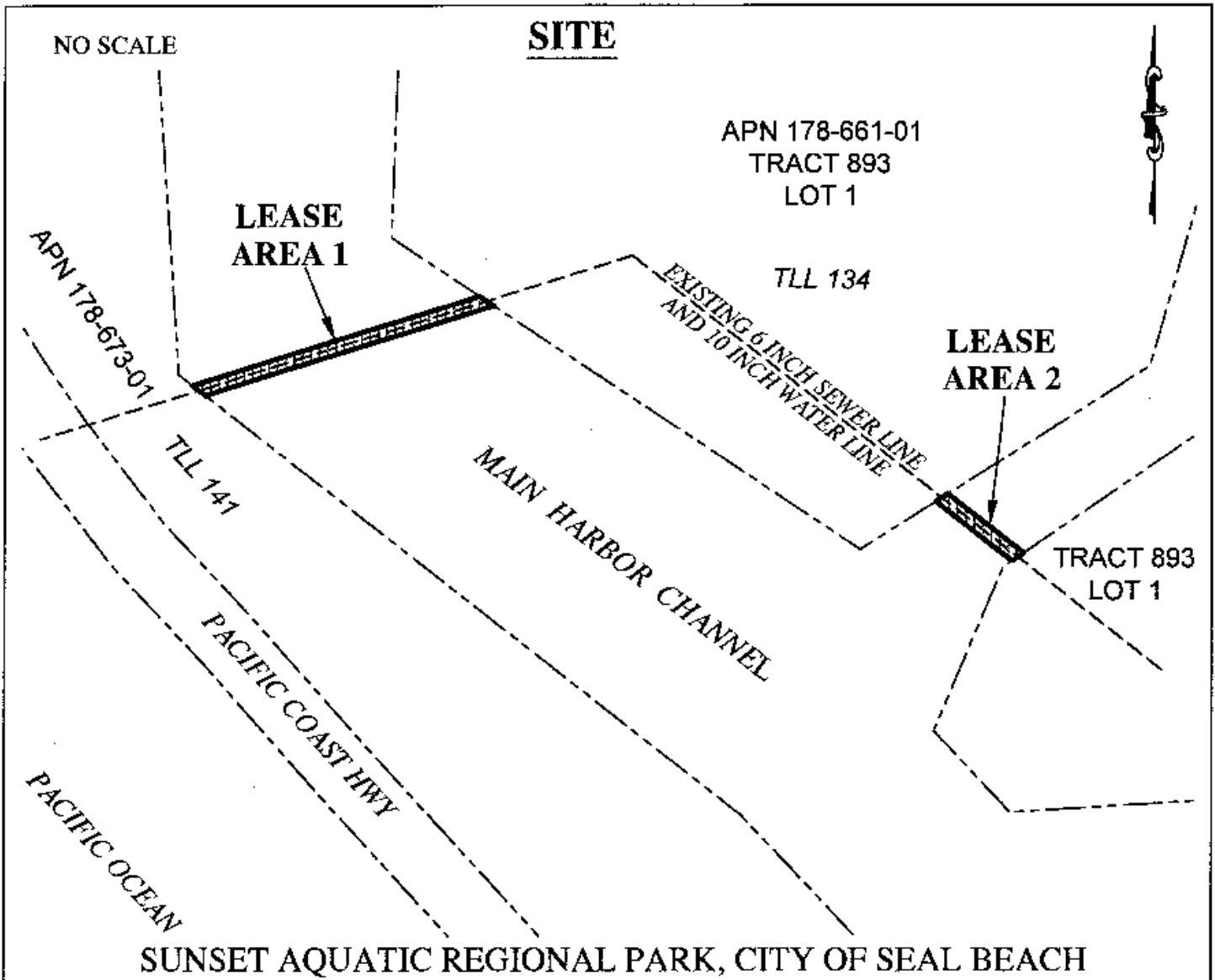
EXCEPTING THEREFROM those portions lying within Lot 1 of Tract No. 893, as per map recorded in book 27, Page 23 and 24, of Miscellaneous Maps, in the office of the County Recorder of said Orange County.

The sidelines of said 20.00-foot easement are lengthened or shortened at the angle point and to terminate at said Northeasterly line.

END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit on March 1, 2017. Original description prepared on August 28, 1968 as found in PRC 4006 file, Calendar Item 31.





MAP SOURCE: USGS QUAD

Exhibit B

PRC 4006.9

CITY OF SEAL BEACH

APNs 178-673-01 & 178-661-01

GENERAL LEASE -
RIGHT-OF-WAY USE

ORANGE 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.