

**STAFF REPORT
C40**

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12/03/18
PRC 8793.1
G. Asimakopoulos

GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANT:

John C. Laing and Elizabeth A. Laing, as Trustees of the 2000 John C. Laing and Elizabeth A. Laing Revocable Trust dated August 23, 2000, as Amended and Restated on April 22, 2013

PROPOSED LEASE AREA:

AREA, LAND TYPE, AND LOCATION:

175 square feet, more or less, of sovereign tide and submerged land located in the Pacific Ocean, adjacent to 4610 Opal Cliff Drive, near Santa Cruz, Santa Cruz County.

AUTHORIZED USE:

Continued use and maintenance of an existing 2-foot-wide cutoff stem wall.

LEASE TERM:

10 years, beginning August 22, 2018.

CONSIDERATION:

\$1,260 per year, with an annual Consumer Price Index adjustment.

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, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On August 22, 2008, the Commission authorized the issuance of a General Lease – Protective Structure Use to John C. Laing for the construction, use, and maintenance of a 2-foot-wide cutoff stem wall ([Item C23, August 22, 2008](#)). That lease expired on August 21, 2018. On May 1, 2013, the upland property was deeded to the Applicant. The Applicant is

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now applying for a General Lease – Protective Structure Use, for the continued use and maintenance of the existing 2-foot-wide cutoff stem wall.

The proposed lease area includes approximately 175 square feet. The stem wall is located just waterward of an existing seawall that is located at the base of the bluff but does not extend onto State sovereign land. The existing seawall has degraded, necessitating the need for the stem wall to protect against bluff failure and to protect the home on top of the bluff. The original lessee was one of three homeowners who constructed the 2-foot-wide cutoff stem wall, pursuant to California Coastal Commission Coastal Development Permit (CDP) No. 3-07-031, along the entire length of the existing seawall, located at the toe of the bluff and along the beach seaward of 4610, 4630, and 4640 Opal Cliff Drive (Lease Nos. PRC 8794 and PRC 8795 cover two adjacent portions of the stem wall).

The stem wall and existing seawall also provide for the health and safety of the public by protecting them from bluff failure while recreating on the beach. Adverse effects related to protective structures can include increased beach erosion, interference with natural sand supply, loss of public beach, and potential impacts on flora and fauna as a result of encroachment by these protective structures on the beach environment. Various beach nourishment programs have been conducted by city and regional governing bodies, and sand-loss mitigation fees have been implemented as a requirement for new CDPs to mitigate for these impacts by helping to maintain a sandy beach for public access and recreation. The lease is for a limited term of 10 years, which allows the Commission flexibility if the previously-described impacts occur or if the Commission determines that the Public Trust needs of the area have changed over time.

Based on the information known to staff at this time, the existing stem wall does not substantially interfere with Public Trust needs and values at this location. The proposed lease requires the lessee to keep and maintain the protective structure in good order and repair, insure the lease premises, and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both

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open coastal areas and inland waterways in California. The lease area is located in the Pacific Ocean, adjacent to 4610 Opal Cliff Drive in Santa Cruz.

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 Monterey 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 Monterey¹

Year	Projection (feet)
2030	0.8
2040	1.2
2050	1.9
2100	6.9

Source: Table 28, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ 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.

The lease area includes an existing 8-foot-high, 2-foot-wide stemwall located at the toe of the coastal bluff. The stem wall was placed along the bottom of an existing seawall that encases the seaward face of the natural bluff in concrete. The stem wall within the lease area will be vulnerable to the impacts from sea-level rise and more frequent and intense storms that are the result of climate change. The stem wall is likely to degrade over

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the lease term due to increased time of exposure to wave action, storm surge, and higher total water levels. Bluff erosion as a result of precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the stem wall from the landward side. Therefore, it may require more frequent maintenance to ensure its continued function during and after storm seasons and reduce the risk it poses to public safety in the event the stem wall becomes a source of marine debris or a coastal hazard as a result of dislodgement or structural failure.

The stem wall also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on sovereign land adjacent to the lease area. The beach area seaward of the stem wall is subject to width reduction and loss from erosion, scour, and coastal squeeze (the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure). In addition to the stem wall inhibiting the natural landward migration of the beach, it is also a barrier between the naturally eroding bluffs and the beach, and effectually prevents beach replenishment via natural passive erosion. In general, seawalls increase beach scour at the toes and sides of the walls by reflecting and refracting wave energy back on to the beach with higher force due to their placement and composition. Beach loss is anticipated to increase over the term of the lease because of the combined factors of climate change impacts, natural dynamic coastal processes, and the presence of this stem wall, unless beach replenishment projects are implemented.

The 10-year lease term provides both the Commission and the lessee an opportunity to check in after a relatively short-term interval to assess the effects of sea-level rise and evaluate the design and functionality of the existing protective structure in order to make incremental adaptation steps as necessary and appropriate.

Conclusion:

For all the reasons above, staff believes the issuance of this lease 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 is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction; and Strategy 1.2 to provide

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that the current and future management of ungranted sovereign lands and resources and granted lands, is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning.

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.

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).

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, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use to John C. Laing and Elizabeth A. Laing, as Trustees of the 2000 John C. Laing and Elizabeth A. Laing Revocable Trust dated August 23, 2000, as Amended and Restated on April 22, 2013, beginning August 22, 2018, for a term of 10 years, for the use and maintenance of an existing 2-foot-wide cutoff stem wall, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration: \$1,260 per year, with an annual Consumer Price

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Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A
LAND DESCRIPTION

PRC 8793.1

DESCRIPTION OF A 2 FOOT WIDE STRIP OF TIDE AND SUBMERGED LAND, SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AND LYING ADJACENT TO RANCHO ARROYO DEL RODEO, ALSO BEING ADJACENT TO LOTS 17 AND 18 AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED "OPAL CLIFFS SANTA CRUZ COUNTY, CALIFORNIA" FILED FOR RECORD IN VOLUME 25 OF MAPS AT PAGE 12 SANTA CRUZ COUNTY RECORDS; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS; TO WIT

COMMENCING at a found 3/4" iron pipe tagged L.S. 4150 on the northwestern boundary of Opal Cliff Dr. at the most eastern corner of Lot 23 as said iron pipe is shown on that certain map entitled "Record of Survey a portion of the Lands of Phillip E. Karleen, Jr. & Geriann Trustees' Opal Cliffs, filed for record on the 15th day of September 1999 in Volume 96 of Maps at Page 30 Santa Cruz County Records

THENCE FROM SAID POINT OF COMMENCEMENT and along the northwestern boundary of Opal Cliff Drive South 63° 59' West 52.57 feet; thence continuing along said northwestern boundary South 64° 04' West 52.60 feet to a found 3/8" iron pin at the most southern corner of Lot 25 as shown on the abovementioned record of survey map; thence leaving said northwestern boundary, South 26° 01' East 50.09 feet to the southeastern boundary of Opal Cliff Dr. as shown on the above mentioned map of "Opal Cliffs Santa Cruz County, California"; thence along said southeastern boundary North 63° 59' East 13.57' feet to a found 1/2" iron pipe tagged RE 6270 at the Northwestern corner of the lands conveyed to John C. Laing, a married man as his sole and separate property filed for record on the 29th day of January, 2004 in Instrument #2004-0005852 Official Records of Santa Cruz County; thence along the southwestern boundary thereof South 44° 02' East 160.96 feet to the base of an existing seawall and the **POINT OF BEGINNING**

Thence from said **POINT OF BEGINNING** leaving said southwestern boundary of the abovementioned lands of Laing northeasterly along the base of said seawall the following courses and distances; North 61°48' East 19.50 feet; thence North 61°12' East (at 10.12 feet, the northeastern boundary of the aforementioned Lot 18) 15.00 feet; thence North 58° 50' East 13.00 feet; thence North 56° 11' East 14.00 feet; thence North 53°00' East 22.99 feet; thence North 50°21' East 3.09 feet, more or less to a point on the northeastern boundary of the above mentioned Lot 17; thence leaving the base of said seawall and along said northeastern boundary South 44°02' East 2.01 feet; thence leaving said northeastern boundary parallel with and 2.00 feet distant perpendicular from the base of the existing seawall the following courses and distances; South 50°21' West 3.29 feet; thence South 53°00' West 23.10 feet; thence South 56°11' West 14.10' feet; thence South 58°50' West 13.09 feet; thence South 61°12' West (at 4.37 feet, the northeastern boundary of the aforementioned Lot 18) 15.05 feet; thence South 61° 48' West 18.94' feet, more or less to the Southwestern boundary the above mentioned Lot 18; thence northwesterly along said boundary North 44° 02' West 2.08 feet, more or less to the point of beginning;

Excepting therefrom any portion lying landward of the Ordinary High Water Mark.

CONTAINING 175 square feet of land a little more or less.

SURVEYED AND COMPILED IN APRIL 2008 BY BOWMAN & WILLIAMS, CONSULTING CIVIL ENGINEERS, FILE NO. 24082.2.REV2

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Bryan F. Happee
7/24/2008
BRYAN F. HAPPEE PLS 8229 RENEWAL DATE 12/31/09



File No. 24082.1.REV3
Drawn By _____
Checked By _____
July 17, 2008
APN 033-132-01
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