

R-28

August 18, 2020

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager, or designee, to extend application of the Public Seawall Lease Program (Lease Program) to all phase areas of the Naples Permanent Seawall Repair Project (Project) in accordance with California Coastal Commission (CCC) Special Condition of Approval No. 10; and,

Adopt a Resolution amending the Master Fee and Charges Schedule and Public Seawall Lease Permit Fee (Fee) to \$0.57 annual per square-foot in accordance with the Consumer Price Index (CPI) and making the Fee subject to future CPI adjustments on an annual basis using the fiscal year. (District 3)

DISCUSSION

The 11,000-linear-foot Naples seawall system is divided into six prioritized phases (Attachments A and B), with Phase One addressing the area in the most imminent danger of collapse. The Phase One Project consisted of the repair of 1,915 linear feet of public seawalls located in the Rivo Alto Canal, from the Ravenna Bridge to the eastern portion of The Toledo Bridge. Phase One was completed on October 31, 2015.

On June 11, 2019, the City Council awarded a construction contract to Reyes Construction, Inc., to perform the Naples Island Permanent Seawall Repair, Phase Two of the project. The construction activities include the installation of 2,148 linear feet of new steel sheet-pile seawall on the water sides of the existing vertical seawalls at The Colonnade, the south side and eastern end of Treasure Island, and the western end of the Naples Peninsula. Additional scope includes new sidewalks, guardrails, storm drain systems, lighting, new float access platform supports and modifications, temporary storage/relocation of docks, and replacement of approximately 42 palm trees. Phase Two construction is expected to be completed in August/September 2020.

On October 9, 2013, the California Coastal Commission (CCC) approved the City's application to proceed with the Project subject to 17 special conditions of approval, one of which required the City to institute a Lease Program for private docks, floats, and piers located on public waterways in the Project area (Special Condition of Approval No. 10). The condition is based on Section 6 of Article XVI of the California Constitution, which requires the City of Long Beach (City) to charge appropriate prices for the use of State tidelands. On June 16, 2015, the City Council adopted Resolution Nos. RES-15-0072 (Attachment C) and RES-15-0073 (Attachment D) to amend the Master Fee and Charges Schedule approving a new Public Seawall Lease Permit Fee and the Public Seawall Lease Program. The CCC has subsequently required, upon completion of Phase Two, the City to expand application of the Lease Program, including the rental fee, to all future phases of the Project.

HONORABLE MAYOR AND CITY COUNCIL

August 18, 2020

Page 2

The current fee of \$0.50 annual per square-foot was created in 2015, after evaluation of rental fees for submerged tidelands located adjacent to the residential properties, fees charged in other coastal communities, and extensive analysis of services and the costs reasonably borne by the City in providing those services. The fee has remained unchanged since June 2015. The Parks, Recreation and Marine (PRM) Department is recommending a \$0.07 CPI increase of the Public Seawall Lease Permit Fee and the application of future CPI adjustments. This increase in the lease rate coincides with the completion of Phase Two in August/September 2020, and will assist in recovering costs associated with services provided in addition to reflecting an appropriate price for the use of State tidelands as is required by the CCC.

This matter was reviewed by Deputy City Attorney Erin Weesner-McKinley and by Revenue Management Officer Geraldine Alejo on August 3, 2020.

TIMING CONSIDERATIONS

Expansion of the Lease Program to cover all six phase areas of the Project satisfying CCC requirements must be approved and implemented before any docks, floats, or piers can be returned to the Phase Two area. City Council action is requested on August 18, 2020, to ensure that docks, floats, or piers can be returned at the conclusion of the construction project.

FISCAL IMPACT

The recommendation will amend the Master Fee and Charges Schedule and increase the annual Public Seawall Lease Permit Fee from \$0.50 per square-foot to \$0.57 per square-foot for private use of public waterways within the Project area. Due to the Lease Program expansion, the permit fee will be collected from an increased number of properties. During FY 19, the current Lease Program and fee generated \$234,239. The additional revenue from the Program expansion and the fee increase is estimated at \$381,481. The additional revenue will improve cost recovery for the services provided in the area and will be subject to future CPI adjustments. Revenues are deposited in the Tidelands Operating Fund Group in the Parks, Recreation and Marine Department. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



BRENT DENNIS
DIRECTOR, PARKS, RECREATION AND MARINE

APPROVED:



THOMAS B. MODICA
CITY MANAGER

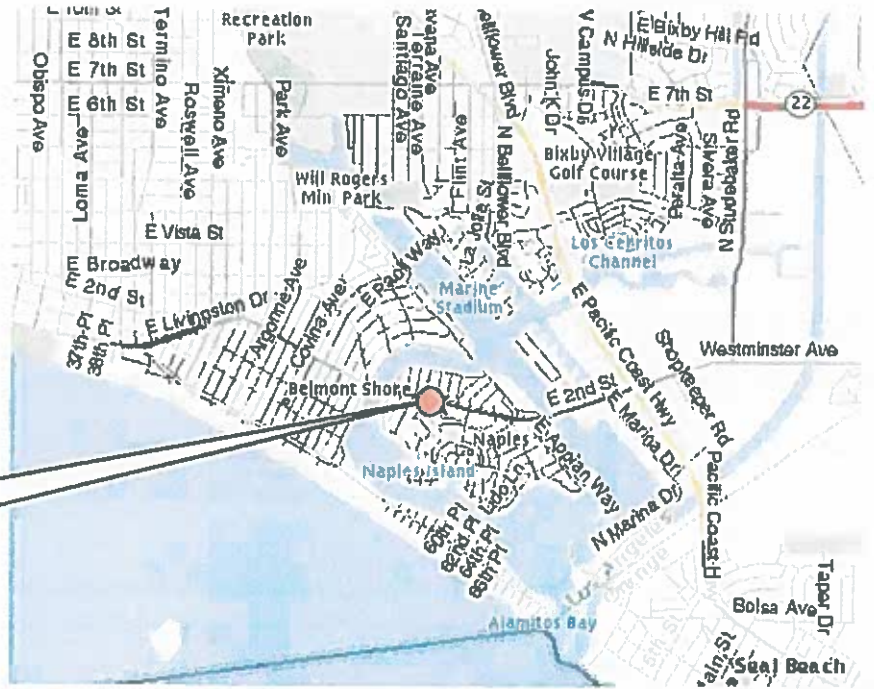
Attachment A: Vicinity Map

Attachment B: Repair Priorities & Phasing Plan

Attachment C: Council Resolution No. RES-15-0072

Attachment D: Council Resolution No. RES-15-0073

**VICINITY
MAP**



**NAPLES,
LONG BEACH, CA**

**LOCATION
MAP**

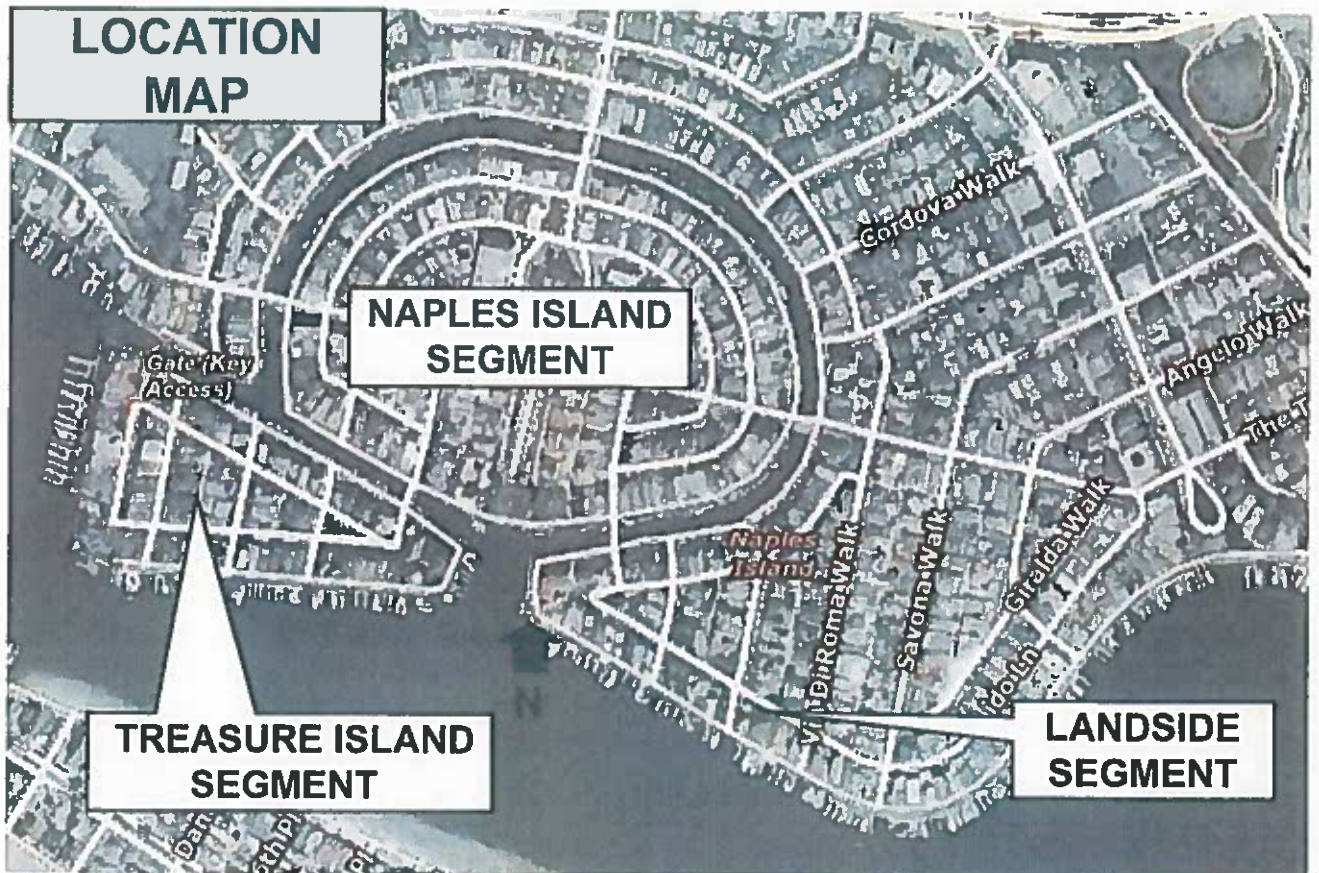
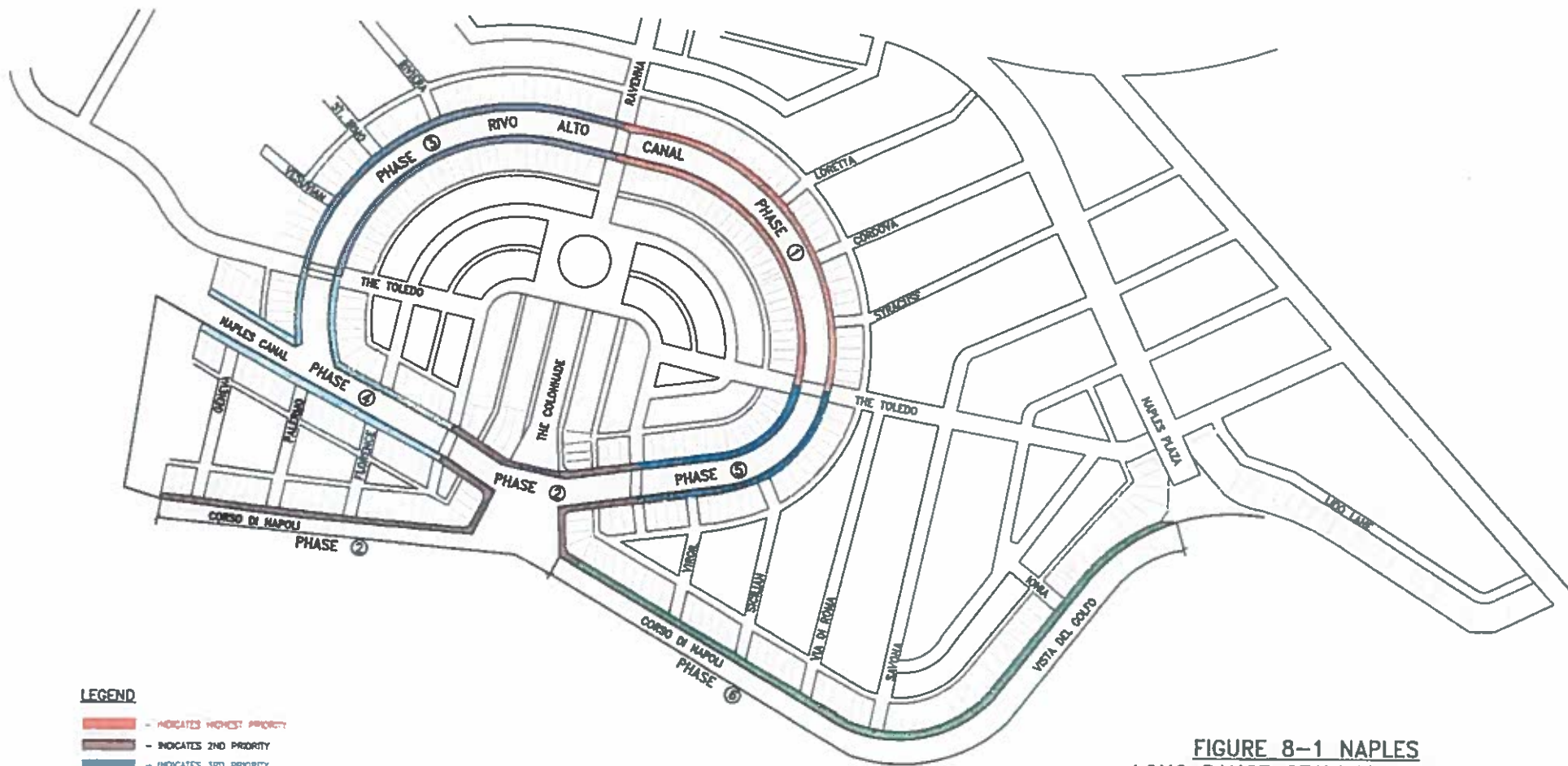


FIGURE 1 – 1 LOCATION AND VICINITY MAPS



LEGEND

- █ - INDICATES HIGHEST PRIORITY
- █ - INDICATES 2ND PRIORITY
- █ - INDICATES 3RD PRIORITY
- █ - INDICATES 4TH PRIORITY
- █ - INDICATES 5TH PRIORITY
- █ - INDICATES 6TH PRIORITY

NOTE: PHASE LIMITS ARE BRIDGE TO BRIDGE, LAND.

**FIGURE 8-1 NAPLES
LONG RANGE SEAWALL REPAIRS
REPAIR PRIORITIES & PHASING PLAN
FEBRUARY 25, 2009**

FIGURE 8-1

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

RESOLUTION NO. RES-15-0072

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE MASTER FEE
AND CHARGES SCHEDULE BY ADOPTING A PUBLIC
SEAWALL MOORING LEASE PERMIT FEE

WHEREAS, on June 16, 2010, the Long Beach City Council authorized \$9.5 million in funding for the Naples Permanent Seawall Repair Project ("Project"), in order to address the infrastructure concerns with the seawalls surrounding Naples; and

WHEREAS, the Project has been divided into six (6) phases; and

WHEREAS, the seawall repair work in the Phase One area of the Project, which is located in the Rivo Alto Canal from the Ravenna Bridge to the eastern portion of The Toledo Bridge, began in 2014 with an anticipated completion of summer 2015; and

WHEREAS, the California Coastal Commission ("CCC") requires that prior to the placement of any dock floats into the Rivo Alto Canal after the completion of the Phase One seawall repairs, the City of Long Beach ("City") shall institute a new lease program for private use of public waterways, at a minimum, in the Phase One area of the Project; and

WHEREAS, as required by the CCC, the City has developed the Public Seawall Mooring Lease Program for the charging of a rental fee for the limited-term private use and occupancy of public waterways upon tidelands to begin in the Phase One area of the Project; and

WHEREAS, the CCC may subsequently require the City to expand application of the lease program, including the rental fee, to future phases of the Project; and

WHEREAS, City staff has conducted an evaluation of rental fees for submerged tidelands located adjacent to the residential properties around Alamitos Bay

1 and Naples, the costs of renting a slip at private and public marinas, as well as the fees
2 charged in other coastal communities; and

3 WHEREAS, on May 14, 2015, at a Marine Advisory Commission meeting,
4 the City discussed the proposed rental fee for use of water space occupied by docks,
5 floats, gangways, and piers, including berthing space surrounding the structures; and

6 WHEREAS, on May 21, 2015, the City held a public outreach meeting to
7 solicit community input and participation in the review process and this meeting afforded
8 the public the opportunity to comment on this matter as well as allowing the City to
9 provide to the public information relating to this matter; and

10 WHEREAS, the City has conducted an extensive analysis of this matter, its
11 services, the costs reasonably borne by the City in providing those services, the
12 beneficiaries of those services, and the revenues produced by those paying fees and
13 charges for said services; and

14 WHEREAS, the City Council has considered all documents and comments
15 in the record in connection with this Resolution; and

16 WHEREAS, the City Council, at a duly noticed public hearing, took public
17 testimony and input regarding certain proposed new or increased fees and charges; and

18 WHEREAS, in accordance with the provisions of Government Code Section
19 66016, at least fourteen (14) days prior to the public hearing at which this Resolution is
20 adopted, notice of the time and place of the hearing was mailed to eligible interested
21 parties who filed written requests with the City for mailed notice of meeting regarding new
22 or increased fees or charges; and

23 WHEREAS, in accordance with the provisions of the Government Code
24 66016, data regarding the estimated cost of the services and the revenue sources
25 anticipated to provide the services was available for public review and comment for ten
26 (10) days prior to the public hearing at which this Resolution was adopted; and

27 WHEREAS, publication of the notice of public hearing was given in
28 accordance with the provisions of Government Code Section 6062a, ten (10) days in

1 advance of the public hearing at which the adoption of this Resolution was considered;

2 NOW, THEREFORE, the City Council of the City of Long Beach hereby

3 resolves as follows:

4 Section 1. The facts set forth in the Recitals of this Resolution are true
5 and correct and are hereby incorporated by reference herein as though set forth in full.

6 Section 2. The City Council finds that the fee provisions contained in
7 Exhibit "A" attached hereto and incorporated by reference, provide for the charging of
8 reasonable rent and that the rental rate in Exhibit "A" constitute reasonable rent for
9 seawall mooring located upon tidelands. The City Council further finds and determines
10 the rent for seawall mooring located upon tidelands, operating under an annual lease
11 permit, shall be set in accordance with said Exhibit "A". The fees established in this
12 Resolution shall only be applicable to permittees with a structure connected to a publicly
13 owned seawall located over tidelands.

14 Section 3. The City Council hereby adopts and approves the new,
15 increased, or adjusted fees and charges as set forth and described in Exhibit "A",
16 attached hereto and incorporated herein by this reference, as though set forth in full,
17 word for word. The fees and charges set forth in said Exhibit "A" shall thereafter be
18 incorporated into those fees and charges previously adopted and approved by the City
19 Council by Resolution and shall collectively be known as the Master Fee and Charges
20 Schedule of the City of Long Beach and may be made available to the public for its
21 information and review.

22 Section 4. Adoption of the new or increased fees and charges set forth
23 and described in this Resolution for the specified City services, as shown in Exhibit "A"
24 attached hereto and incorporated herein by this reference, are intended to recover costs
25 necessary to provide the services within the City for which the fees are charged. In
26 adopting the new or increased fees and charges set forth in this Resolution, the City
27 Council of the City of Long Beach is exercising its powers under Article XI, Section 7 of
28 the California Constitution.

1 Section 5. All requirements of California Government Code Sections
2 66000, et seq., are hereby found to have been satisfied.

3 Section 6. The fees and charges set forth in Exhibit "A" are reasonable
4 estimates of the costs incurred by the City in providing the services to those who request
5 them. The fees and charges for such services are necessary to recover the reasonable,
6 estimated cost of providing such services, including but not limited to being used to meet
7 operating expenses within the tidelands.

8 Section 7. All provisions of prior City Council ordinances and resolutions
9 establishing fees are hereby rescinded and repealed in part or in whole to the extent of
10 any conflict between said ordinances and resolutions and the provisions established by
11 this Resolution.

12 Section 8. The establishment of fees and charges herein is exempt from
13 the requirements of the California Environmental Quality Act (CEQA) pursuant to Public
14 Resources Code Section 21080(b)(8) and the adoption of this Resolution is for the
15 purposes of inter alia: (1) meeting operating expenses; (2) purchasing or leasing
16 supplies, equipment or materials; (3) meeting financial reserve needs and requirements;
17 or (4) obtaining funds for capital projects, necessary to maintain service within the various
18 areas of the City.

19 Section 9. This resolution shall take effect immediately upon its adoption
20 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of June 16, 2015

by the following vote:

Ayes: Councilmembers: Gonzalez, Lowenthal, Price, Supernaw,
Andrews, Uranga, Austin.

Noes: Councilmembers: None.

Absent: Councilmembers: Mungo, Richardson.


City Clerk

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

EXHIBIT "A"

Exhibit A

List of Proposed Fee Adjustments for Fiscal Year 2015 (FY 15)					
Fee Description	Current Fee	Requested Fee	Per	Annual Revenue Change	Fund
Department: CITYWIDE FEES & CHARGES					
GENERAL FEES					
Public Seawall Mooring Lease Permit Fee	NEW	\$0.50	Annual per Sq. Foot	\$11,000	TIDELANDS
TOTAL				\$11,000	

OFFICE OF THE CITY ATTORNEY
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1 RESOLUTION NO. RES-15-0073

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH APPROVING A PUBLIC SEAWALL
5 MOORING LEASE PROGRAM AND A MODEL PUBLIC
6 SEAWALL MOORING LEASE PERMIT TEMPLATE

7
8 WHEREAS, on June 16, 2010, the Long Beach City Council authorized
9 \$9.5 million in funding for the Naples Permanent Seawall Repair Project ("Project"), in
10 order to address the infrastructure concerns with the seawalls surrounding Naples; and

11 WHEREAS, the Project has been divided into six (6) phases; and

12 WHEREAS, the seawall repair work in the Phase One area of the Project,
13 which is located in the Rivo Alto Canal from the Ravenna Bridge to the eastern portion of
14 The Toledo Bridge, began in 2014 with an anticipated completion of summer 2015; and

15 WHEREAS, the California Coastal Commission ("CCC") requires that prior
16 to the placement of any dock floats into the Rivo Alto Canal after the completion of the
17 Phase One seawall repairs, the City of Long Beach ("City") shall institute a new lease
18 program for private use of public waterways, at a minimum, in the Phase One area of the
19 Project; and

20 WHEREAS, the CCC may subsequently require the City to expand
21 application of the lease program to future phases of the Project; and

22 WHEREAS, City staff recommends the implementation of a Public Seawall
23 Mooring Lease Program as required by the CCC to begin in the Phase One area of the
24 Project; and

25 WHEREAS, if the CCC subsequently requires expansion or modification of
26 the Public Seawall Mooring Lease Program, City staff recommends that the City Council
27 authorize the City Manager, or his/her designee, to amend the Public Seawall Mooring
28 Lease Program to comply with any and all conditions and requirements imposed by the

1 CCC; and

2 WHEREAS, City staff recommends adoption of a model Public Seawall
3 Mooring Lease Permit template for the limited-term private use and occupancy of public
4 waterways upon tidelands in all areas that are, or shall be, subject to the Public Seawall
5 Mooring Lease Program;

6 NOW, THEREFORE, the City Council of the City of Long Beach hereby
7 resolves as follows:

8 Section 1. The Recitals provided above are true and correct and are
9 incorporated into the substantive portion of this Resolution.

10 Section 2. The City Council authorizes the City Manager, or his/her
11 designee, to develop and administer a Public Seawall Mooring Lease Program with
12 appropriate fees established in relation to the lease area and temporal length of each
13 lease. The lease program shall allow for the limited-term private use and occupation of
14 state tidelands for development associated with recreational boating activities (i.e.,
15 private docks and piers). The money generated by the lease program shall be deposited
16 into the City's Tidelands Funds to be utilized for public access improvements, including
17 but not limited to public walkways and future seawall repairs.

18 Section 3. The City Council authorizes the City Manager, or his/her
19 designee, to implement the Public Seawall Mooring Lease Program to begin in the
20 Naples Permanent Seawall Repair Project (Phase One) area, as reflected in the map
21 attached hereto as Exhibit "A", to be effective upon substantial completion of the
22 applicable repairs or improvements at which time they are suitable for occupancy or use
23 for their intended purpose.

24 Section 4. If subsequently required by the California Coastal
25 Commission, the City Council authorizes the City Manager, or his/her designee, to
26 expand application of the Public Seawall Mooring Lease Program (including the rental
27 fee) to future phase areas of the Naples Permanent Seawall Repair Project, to be
28 effective upon substantial completion of the applicable repairs or improvements at which

1 time they are suitable for occupancy or use for their intended purpose.

2 Section 5. The City Council authorizes the City Manager, or his/her
3 designee, to take all actions necessary to subsequently modify and amend the Public
4 Seawall Mooring Lease Program in order the comply with any and all conditions and
5 requirements imposed by the California Coastal Commission.

6 Section 6. The City Council adopts the model Public Seawall Mooring
7 Lease Permit template attached hereto as Exhibit "B" and incorporated by reference, for
8 the limited-term private use and occupancy of public waterways upon tidelands in all
9 areas that are, or shall be, subject to the Public Seawall Mooring Lease Program.

10 Section 7. The City Council authorizes the City Manager, his/her
11 designee, or the Manager of the Marine Bureau, to execute all documents necessary to
12 enter into the attached lease permit, in a form that is substantially similar to the attached
13 model lease permit with tidelands users.

14 Section 8. This Resolution shall take effect immediately upon its
15 adoption by the City Council, and the City Clerk shall certify the vote adopting this
16 Resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of June 16, 2015

by the following vote:

Ayes: Councilmembers: Gonzalez, Lowenthal, Price, Supernaw,
Andrews, Uranga, Austin.

Noes: Councilmembers: None.

Absent: Councilmembers: Mungo, Richardson.

Porram Davis
City Clerk

EXHIBIT "A"



Vicinity Map
for Plans & Specifications R-6983
Naples Island Permanent Seawall Repairs (Phase 1)
City of Long Beach



LEGEND


 Phase 1 Boundary



EXHIBIT "B"

OFFICE OF THE CITY ATTORNEY
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PUBLIC SEAWALL MOORING LEASE PERMIT

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This Public Seawall Mooring Lease Permit ("Lease Permit") is granted this _____ day of _____, 20__, pursuant to Resolution No. _____ adopted by the City Council of the City of Long Beach ("City") at its meeting of June 16, 2015, to _____ ("Permittee"), whose address is _____, for the limited-term private use and occupancy of public waterways located upon tidelands, as more particularly described and depicted in Exhibit "A" ("Premises"), which is attached hereto and incorporated by reference.

This Lease Permit is granted with reference to the following facts:

1. As required by the California Coastal Commission, the City has developed the Public Seawall Mooring Lease Program ("Lease Program") with rental fees established in relation to the lease area and temporal length of each lease, for the limited-term private use and occupancy of public waterways upon tidelands.
2. Permittee's Premises and associated improvements are located within areas that are subject to the Lease Program.
3. Permittee desires to enter into this Lease Permit for Permittee's limited-term private use and occupancy of public waterways upon tidelands, as described and depicted in Exhibit "A".

The use and occupancy of public waterways is hereby granted upon and subject to the following terms and conditions:

1. PREMISES. Premises as described and depicted in Exhibit "A" shall include the square footage of public waterways occupied by docks, floats, gangways, or piers, including berthing space surrounding the private structures. Berthing space is defined as waters around the edge of the structure where a vessel could be tied. The width of the berthing area extends from the outer edge of the structure to the pierhead line, as established in Section 16.08.740 of the Long Beach Municipal Code, or any amendment thereto. The length of the berthing area follows the contours of the dock.

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CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 2. LIMITATION ON DOCK FLOAT SIZE. In order to reduce further
2 encroachment or development into the navigable channel, the dimensions of each dock
3 float in the Rivo Alto Canal and Naples Canal shall be restricted to a width of six feet (6'),
4 effective upon the earlier of: (i) at such time the docking structure is substantially repaired
5 or replaced; or (ii) December 31, 2023. Each dock, and any vessels moored permanently
6 or temporarily at the dock, must conform to all other Long Beach Marina Rules and
7 Regulations, including but not limited to the pier head and property width guidelines as
8 established in Sections 16.08.740 and 16.08.750 of the Long Beach Municipal Code.

9 3. TERM. This Lease Permit shall be valid for a period of five (5) years
10 beginning on _____, 20__ and expiring on _____, 20__, unless
11 terminated earlier as provided herein. A new permit may be automatically issued by the
12 City upon expiration, provided the rental fee is paid and the Premises are maintained. The
13 City's policy is to re-issue lease permits to the upland property owner who also owns the
14 physical structure associated with the Premises that occupy the water space.

15 4. RENT. Permittee shall pay to the City annual rent in the amount of
16 Fifty Cents (\$0.50) per square foot of water space occupied by docks, floats, gangways, or
17 piers, including berthing space surrounding the structures, as calculated pursuant to
18 Resolution No. _____ or any successor/amended resolution. Resolution No.
19 _____ and any successor/amended resolution are automatically incorporated by
20 reference into this Lease Permit, without any further action by the parties, when adopted
21 by the Long Beach City Council.

22 5. UTILITIES AND TAXES. Permittee is solely responsible for obtaining
23 all utilities and paying all taxes (including possessory interest tax, if applicable), fees and
24 assessments for the Premises or improvements located thereon.

25 6. MAINTENANCE. Permittee assumes full responsibility for operation
26 and maintenance and repair of the Premises, the physical structure associated with the
27 Premises that occupy the waters space, and associated improvements throughout the term
28 of this Lease Permit at its sole cost, and without expense to the City.

1 7. LIABILITY FOR DAMAGES. Permittee waives all claims against the
2 City for damage to persons and/or property sustained by Permittee on or about Permittee's
3 vessel, dock, float, pier, gangway, or other private structures permitted in the public
4 waterways and adjacent public right-of-way. Neither the City of Long Beach nor any of its
5 officers, employees, or contractors shall be liable for such claim for damage to any persons,
6 and/or property. All property belonging to Permittee located at said location shall be there
7 at the risk of the Permittee and the City shall not be liable for damage thereto nor theft or
8 misappropriation.

9 8. INDEMNIFICATION. Permittee, by its acceptance of this Permit,
10 agrees to indemnify, defend, save and keep the City of Long Beach, its officers, agents,
11 and employees free and harmless from and against any and all liability as well as from and
12 against any and all loss, claims, demands, damages, expenses and costs of whatsoever
13 nature arising out of or in any manner resulting, directly or indirectly, from Permittee's
14 operations on or the condition, use or misuse of the Premises, including liability, claims or
15 damages to or as a result of any structures or fixtures on the Premises or appurtenances
16 to it.

17 9. TRANSFER / ASSIGNMENT. This Lease Permit does not and shall
18 not be construed as the grant, conveyance or transfer of an interest in real property.
19 Neither this Lease Permit nor any interest herein may be transferred or assigned except in
20 accordance with the Long Beach Municipal Code and the Long Beach Marina Rules and
21 Regulations.

22 10. COMPLIANCE WITH ALL APPLICABLE LAWS. Nothing in this Lease
23 Permit shall be construed to excuse compliance by Permittee with any and all of the laws
24 and ordinances of City and State; neither shall this Lease Permit be deemed to obviate the
25 necessity of Permittee's obtaining such other permits or paying other fees as are required
26 to repair, construct and/or maintain any physical structures, or to moor vessels in the area,
27 including but not limited to payment of the annual inspection fee as prescribed in Section
28 16.08.760 of the Long Beach Municipal Code.

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 11. TERMINATION. Permittee's use and occupancy of the public
2 waterways may be terminated by the City after notice to Permittee of Permittee's failure to
3 observe and comply with provisions of the Long Beach Municipal Code and the Rules and
4 Regulations, policies and procedures ("Applicable Regulations") governing and controlling
5 the administration and operation of the Long Beach marinas. Permittee acknowledges that
6 Permittee has read and understands the Applicable Regulations and that they are subject
7 to change. Permittee, in Permittee's use and occupancy of the public waterways, agrees
8 to comply with and be bound by the Applicable Regulations now in force and as hereafter
9 changed. Notice of cancellation must be received in writing by the fifth (5th) day of a
10 calendar month in order to be effective on the last day of that month.

11 12. PROPERTY RIGHT PROTECTION. The Premises, the physical
12 structure associated with the Premises that occupy the waters space, and associated
13 improvements maintained under this Lease Permit are all private property and shall be
14 protected to the maximum extent under the law from unlawful seizure.

15 The acceptance of this Lease Permit by Permittee shall be endorsed on this
16 Lease Permit and shall be an acceptance by Permittee of all of the terms and conditions
17 of this Lease Permit and an agreement to abide and comply with it.

18 _____, 20__ _____

19 "PERMITTEE"
20 CITY OF LONG BEACH, a municipal
21 corporation

22 _____, 20__ By _____
23 City Manager

24 "CITY"
25 Approved as to form this _____ day of _____, 20__.
26 CHARLES PARKIN, City Attorney

27 By _____
28 Deputy City Attorney

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE MASTER FEE AND CHARGES SCHEDULE FOR PUBLIC SEAWALL MOORING LEASE PERMIT FEES

WHEREAS, on June 16, 2010, the Long Beach City Council authorized \$9.5 million in funding for the Naples Permanent Seawall Repair Project ("Project"), in order to address the infrastructure concerns with the seawalls surrounding Naples; and

WHEREAS, the Project has been divided into six (6) phases; and

WHEREAS, on October 9, 2013, the California Coastal Commission approved the City's application to proceed with the Project; and

WHEREAS, the seawall repair work in the Phase One area of the Project, which is located in the Rivo Alto Canal from the Ravenna Bridge to the eastern portion of The Toledo Bridge, began in 2014 and was completed in 2015; and

WHEREAS, on June 16, 2015, the Long Beach City Council adopted Resolution Nos. RES-15-0072 and RES-15-0073 to amend the Master Fee and Charges Schedule approving a new Public Seawall Mooring Lease Permit Fee and the Public Seawall Moring Lease Program; and

WHEREAS, the California Coastal Commission has subsequently required, upon completion of Phase Two, the City to expand application of the Lease Program, including the rental fee, to all future phases of the Project; and

WHEREAS, the California Coastal Commission requirement for the Lease Program and Permit Fee is based on Section 6 of Article XVI of the California Constitution, which requires the City of Long Beach to charge appropriate prices for the use of state tidelands; and

WHEREAS, the current fee of \$0.50 annual per square foot was created in

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Long Beach, CA 90802-4664

1 2015 after evaluation of rental fees for submerged tidelands located adjacent to the
2 residential properties, fees charged in other coastal communities and extensive analysis
3 of services and the costs reasonably borne by the City is providing those services; and

4 WHEREAS, the Department of Parks, Recreation and Marine is
5 recommending a \$0.07 CPI increase of the Public Seawall Mooring Lease Permit Fee
6 and the application of future CPI adjustments on an annual basis using the fiscal year.
7 This coincides with the completion of Phase Two in August/September 2020 to recover
8 costs associated with services provided and reflect an appropriate price for the use of
9 state tidelands as is required by the California Coastal Commission;

10 NOW, THEREFORE, the City Council of the City of Long Beach hereby
11 resolves as follows:

12 Section 1. The facts set forth in the Recitals of this Resolution are true
13 and correct and are hereby incorporated by reference herein as though set forth in full.

14 Section 2. The City Council finds that the fee provisions contained in
15 Exhibit "A" attached hereto and incorporated by reference, provide for the charging of
16 reasonable rent and that the rental rate in Exhibit "A" constitute reasonable rent for
17 seawall mooring located upon tidelands. The City Council further finds and determines
18 the rent for seawall mooring located upon tidelands, operating under an annual lease
19 permit, shall be set in accordance with said Exhibit "A". The fees established in this
20 Resolution shall only be applicable to permittees with a structure connected to a publicly
21 owned seawall located over tidelands.

22 Section 3. The City Council hereby adopts and approves the new,
23 increased, or adjusted fees and charges as set forth and described in Exhibit "A",
24 attached hereto and incorporated herein by this reference, as though set forth in full,
25 word for word. The fees and charges set forth in said Exhibit "A" shall thereafter be
26 incorporated into those fees and charges previously adopted and approved by the City
27 Council by Resolution and shall collectively be known as the Master Fee and Charges
28 Schedule of the City of Long Beach and may be made available to the public for its

1 information and review.

2 Section 4. Adoption of the new or increased fees and charges set forth
3 and described in this Resolution for the specified City services, as shown in Exhibit "A"
4 attached hereto and incorporated herein by this reference, are intended to recover costs
5 necessary to provide the services within the City for which the fees are charged. In
6 adopting the new or increased fees and charges set forth in this Resolution, the City
7 Council of the City of Long Beach is exercising its powers under Article XI, Section 7 of
8 the California Constitution.

9 Section 5. All requirements of California Government Code Sections
10 66000, et seq., are hereby found to have been satisfied.

11 Section 6. The fees and charges set forth in Exhibit "A" are reasonable
12 estimates of the costs incurred by the City in providing the services to those who request
13 them. The fees and charges for such services are necessary to recover the reasonable,
14 estimated cost of providing such services, including but not limited to being used to meet
15 operating expenses within the tidelands.

16 Section 7. All provisions of prior City Council ordinances and resolutions
17 establishing fees are hereby rescinded and repealed in part or in whole to the extent of
18 any conflict between said ordinances and resolutions and the provisions established by
19 this Resolution.

20 Section 8. The establishment of fees and charges herein is exempt from
21 the requirements of the California Environmental Quality Act (CEQA) pursuant to Public
22 Resources Code Section 21080(b)(8) and the adoption of this Resolution is for the
23 purposes of inter alia: (1) meeting operating expenses; (2) purchasing or leasing
24 supplies, equipment or materials; (3) meeting financial reserve needs and requirements;
25 or (4) obtaining funds for capital projects, necessary to maintain service within the various
26 areas of the City.

27 Section 9. This resolution shall take effect immediately upon its adoption
28 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2020, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

EXHIBIT "A"

Fee Title	Fee Description	Current Fee	Requested Fee	Per	Annual Revenue Change	Fund
PARKS, RECREATION, & MARINE						
TIDELANDS FEES						
MARINE BUREAU - TIDELANDS FUNDS						
Public Seawall Lease Permit Fee	The annual rent is charged on a per square foot basis for water space occupied by docks, floats, gangways, or piers, including berthing space surrounding the structures. Effective fee amount may be subject to CPI adjustments.	\$0.50 per square foot, charged annually	\$0.57 per square foot, charged annually, adjusted by CPI	Sq. foot	\$147,242	Tidelands