

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

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.

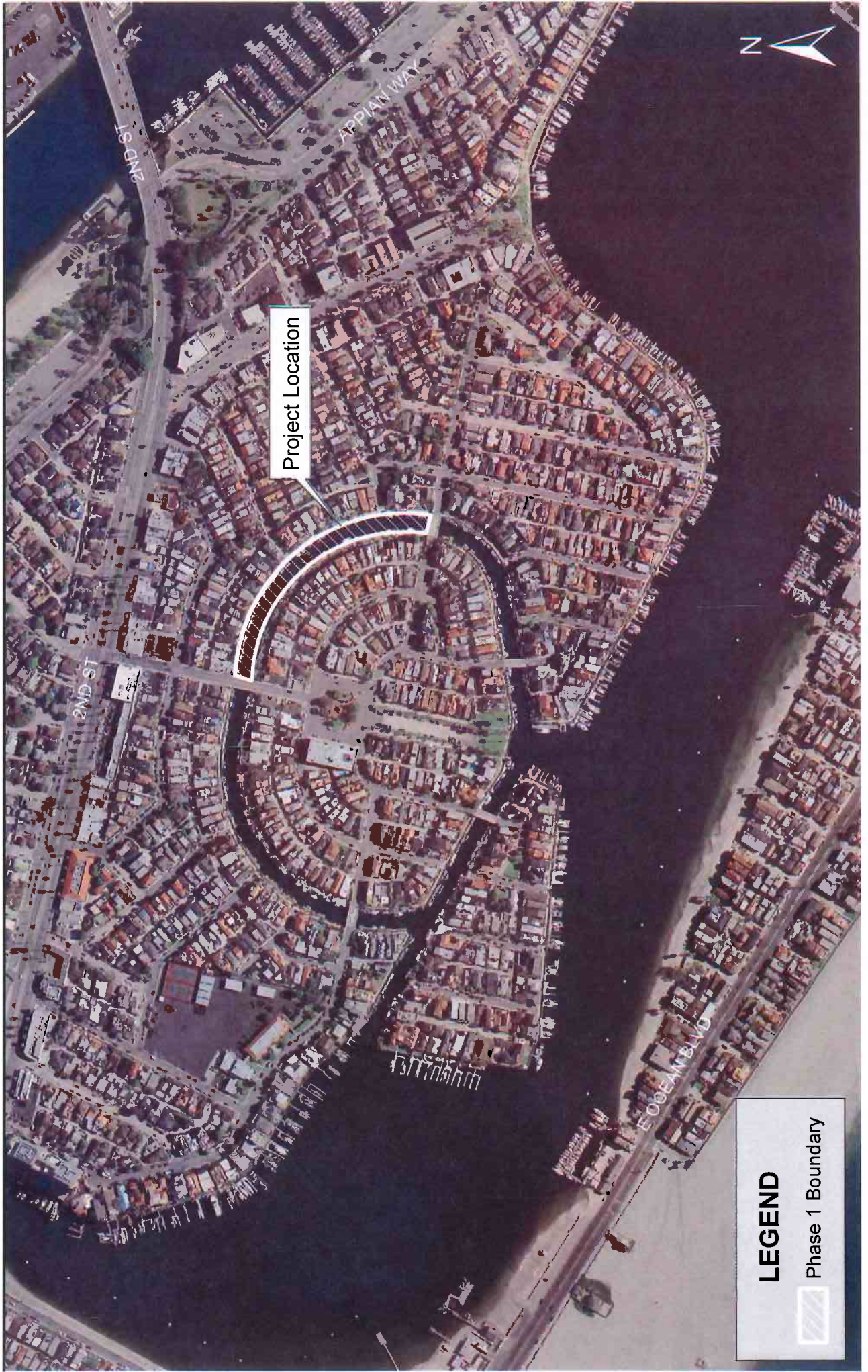
Absent: Councilmembers: Mungo, Richardson.

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"

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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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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.

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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