



CITY OF LONG BEACH

H-1

OFFICE OF THE CITY MANAGER

333 West Ocean Boulevard • Long Beach, CA 90802 • (562) 570-6711 FAX (562) 570-7650

June 16, 2015

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the public hearing, and adopt the attached Resolution amending the Master Fee and Charges Schedule by adopting a Public Seawall Mooring Lease Permit Fee;

Adopt the attached Resolution approving a Public Seawall Mooring Lease Program and a model Public Seawall Mooring Lease Permit template; and

Direct the City Manager to work with the City Attorney to develop an Ordinance amending Chapter 16.08 of the Long Beach Municipal Code to allow for the charging of a lease permit fee relating to the Public Seawall Mooring Lease Program, and to amend the pierhead lines in Rivo Alto Canal in order to maintain the navigable channel. (District 3)

DISCUSSION

A report on the condition and repair needs for the public seawalls in Naples was completed in 2009, and a Mitigated Negative Declaration (State Clearinghouse No. 2010011073) for the Naples Permanent Seawall Repair Project (Project) was certified by the Planning Commission on May 6, 2010 (Attachment A – Location and Vicinity Maps). On June 15, 2010, the City Council authorized \$9.5 million in funding for the Project, which seeks to permanently address the serious infrastructure concerns with approximately 11,000 lineal feet of public seawalls surrounding Naples. Permanent repair of the entire seawall system has been divided into six phases, with Phase One addressing the area in the most imminent danger of collapse (Attachment B – Map of Repair Priorities and Phasing Plan).

The Phase One Project consists of repairing 1,915 lineal feet of public seawalls located in the Rivo Alto Canal, from the Ravenna Bridge to the eastern portion of The Toledo Bridge. To date, the Phase 1 Project has been fully funded and is currently under construction. On May 6, 2014, the City Council adopted plans and specifications No. R-6983 for construction of the Phase One Project, appropriated additional funds, and awarded a construction contract to Ford E.C., Inc., of Los Angeles, CA, for a total amount not to exceed \$11,471,637. Construction for the Phase One Project began later that year and is anticipated to be completed this summer.

With regard to Phase One, on October 9, 2013, the California Coastal Commission (CCC)

approved the City's application to proceed subject to 17 special conditions of approval, one of which requires the City to institute a new Public Seawall Mooring Lease Program (Lease Program) for private docks, floats, and piers located on public waterways in (at least) the Phase One project area (Special Condition of Approval No. 10). It is expected that the CCC will require that this new Lease Program be expanded to apply to other portions of the seawall areas, as they approve future phases of the Project through the required Coastal Development Permits.

In addition, another condition imposed by the CCC requires the dimensions of dock floats in Rivo Alto Canal and Naples Canal (pertinent in a future phase of the Project) to be restricted to a width of six feet, and requires compliance to the size limits when they are replaced or substantially repaired, or no later than December 31, 2023. As required, the dock float size limit will be included in the Public Seawall Lease Permit. This condition was imposed in order to reduce further encroachment of development into the navigable channel, and requires the Proposed Ordinance (Attachment C) to amend the pierhead lines, and also establishes the Lease Program in the Municipal Code.

The Resolution approving the Lease Program and model Public Seawall Lease Permit template (Attachment D) authorizes the City Manager to begin implementation in Phase One as well as the ability to expand the application of the Lease Program to future phase areas of the Project, and to modify and amend the Lease Program in order to comply with any and all conditions and requirements imposed by the CCC.

Pursuant to the CCC's requirements for the Phase One repairs, on May 7, 2015, staff provided a memorandum to the City Council describing the proposed new Lease Program (Attachment E). The proposed annual rent is \$0.50 per square foot of water space occupied by docks, floats, gangways, or piers, including berthing space surrounding the structures (Attachment F and Attachment G). The fee was developed with several criteria in mind and after considering the various costs associated with maintaining the public rights of way adjacent to the public seawalls, as well as the seawalls, themselves. The criteria include:

- This program will only affect those properties where new public seawalls were installed;
- This program is designed so that the average user will pay approximately what they are currently paying;
- The new lease program should generate at least the same level of revenue as the current fees;
- The new program will use pricing that is competitive, based on local market conditions;
- The program will generate revenue that can recover costs associated with operations, repair, and maintenance of public seawalls, tidelands areas, and associated public rights of way.

Three community meetings have been held to solicit input on the proposed fee. During the community meetings, residents expressed concern that future homeowners know that

the size of the boat they can have is limited prior to purchasing the house. As such, the Public Seawall Lease Permit will provide notification that there is a maximum size to boats as established by the City's Marine Bureau. The proposed Lease Program has also been provided to CCC staff.

For participating property owners in the Phase One area of Rivo Alto Canal, the new lease program would replace the Seawall Mooring Fee, which is currently \$10.10 per lineal foot of vessel, and averages approximately \$205 per year per user. Currently, property owners who do not moor vessels at their private docks do not pay any fees for the use of public waterways. For the average dock, the City expect this new program to cost approximately \$215 per year on average, based on a review of typical docks in Phase One. An amendment to the Master Fee and Charges Schedule is necessary as part of the establishment of the new Lease Program (Attachment H).

The proposed lease permit term would be for five (5) years. At the conclusion of the five-year period, the property owner would be required to renew the lease permit. The Marine Bureau will administer the lease program and handle permit implementation. Lease permit revenue will be used to help maintain the new infrastructure in the canal and the adjacent public rights of way.

This matter was reviewed by Deputy City Attorney Linda Vu on May 26, 2015 and by Budget Officer Victoria Bell on May 22, 2015.

TIMING CONSIDERATIONS

A lease program satisfying the CCC requirement must be approved and implemented before any docks, floats, or piers can be returned to the Phase One area. City Council action is requested on June 16, 2015 to ensure that docks can be returned at the conclusion of the construction project.

FISCAL IMPACT

In FY 2013-2014, the existing Seawall Mooring Fee generated \$8,302 in revenue from the Phase One area. This revenue was deposited into the Tidelands Operations Fund (TF 401). The proposed Lease Program in the Phase One area is anticipated to generate \$11,000 annually and will be adjusted annually in accordance with the CPI.

SUGGESTED ACTION:

Approve recommendation.

HONORABLE MAYOR AND CITY COUNCIL


June 16, 2015

Page 4 of 4

Respectfully submitted,



PATRICK H. WEST
CITY MANAGER



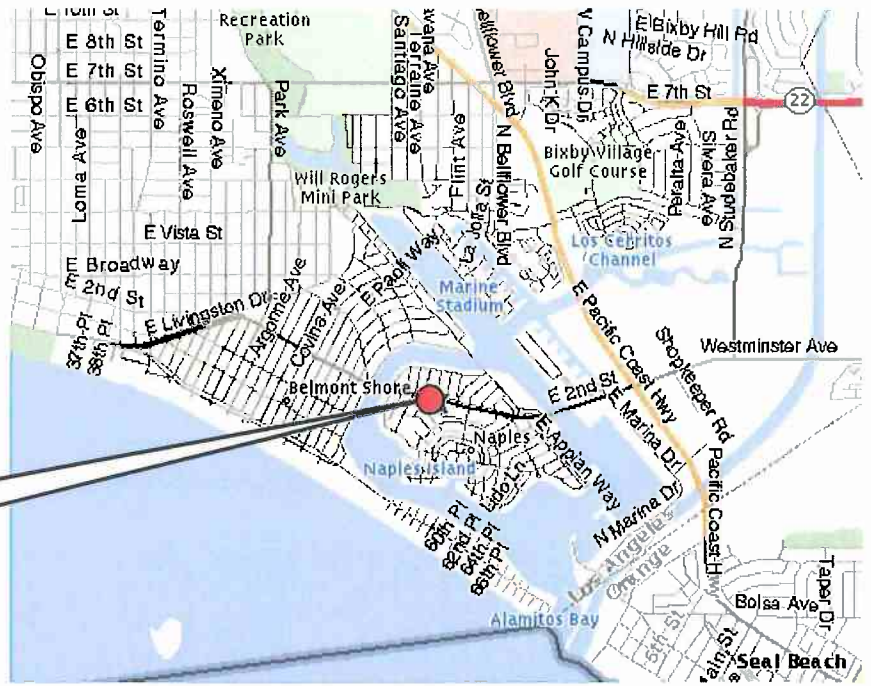
GEORGE CHAPJIAN
DIRECTOR OF PARKS, RECREATION
AND MARINE

Q:\Tidelands Capital Projects\City Council\06-16-2015 Staff Reports\Public Seawall Mooring Lease Program
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Attachments:

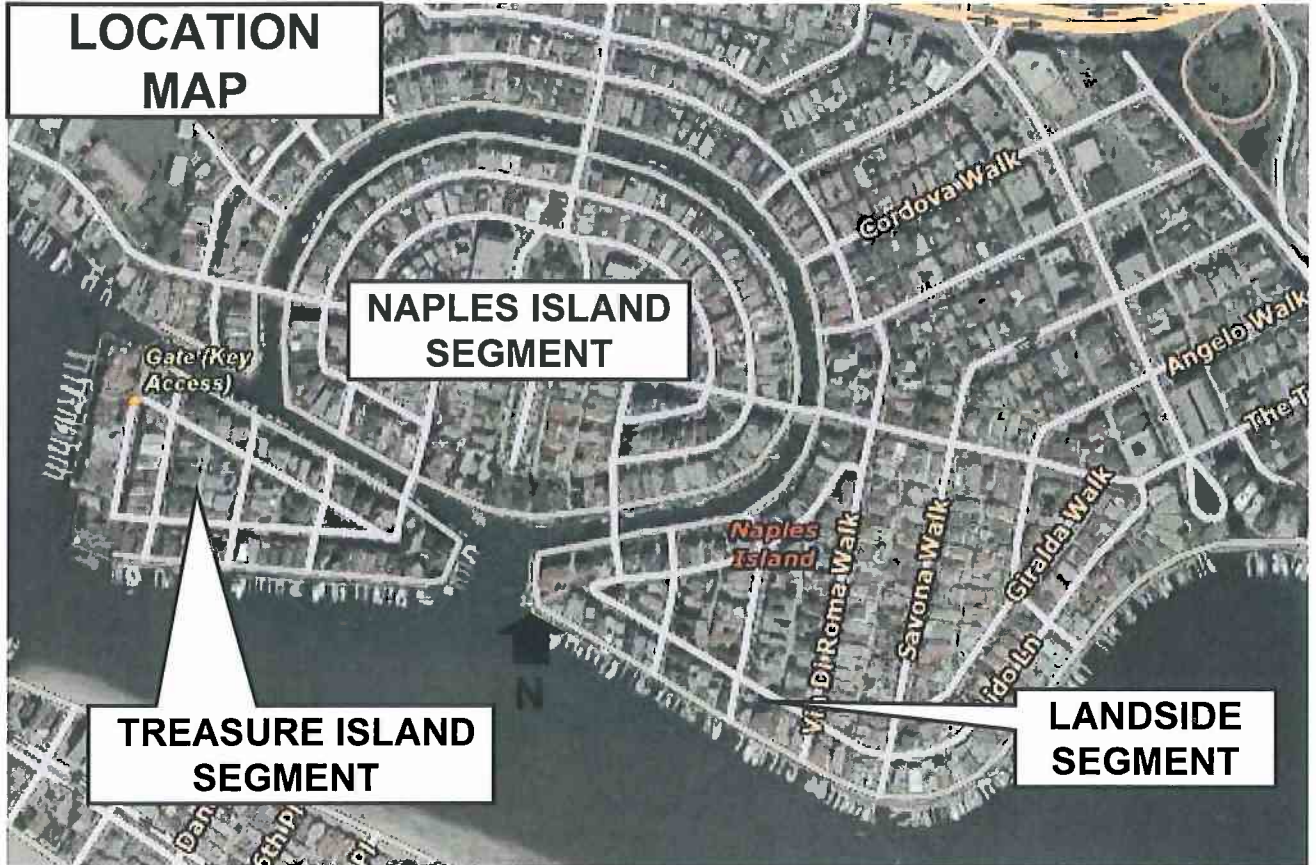
- Attachment A – Location and Vicinity Maps
- Attachment B – Map of Repair Priorities and Phasing Plan
- Attachment C – Proposed Ordinance
- Attachment D – Resolution Approving the Lease Program and Model Public Seawall Lease Permit Template
- Attachment E – Memorandum: Private Lease of Public Waterways
- Attachment F – Public Seawall Mooring Fee
- Attachment G – Sample Public Seawall Mooring Lease Permit Fee
- Attachment H – Resolution amending the Master Fee and Charges Schedule

**VICINITY
MAP**



**NAPLES,
LONG BEACH, CA**

**LOCATION
MAP**

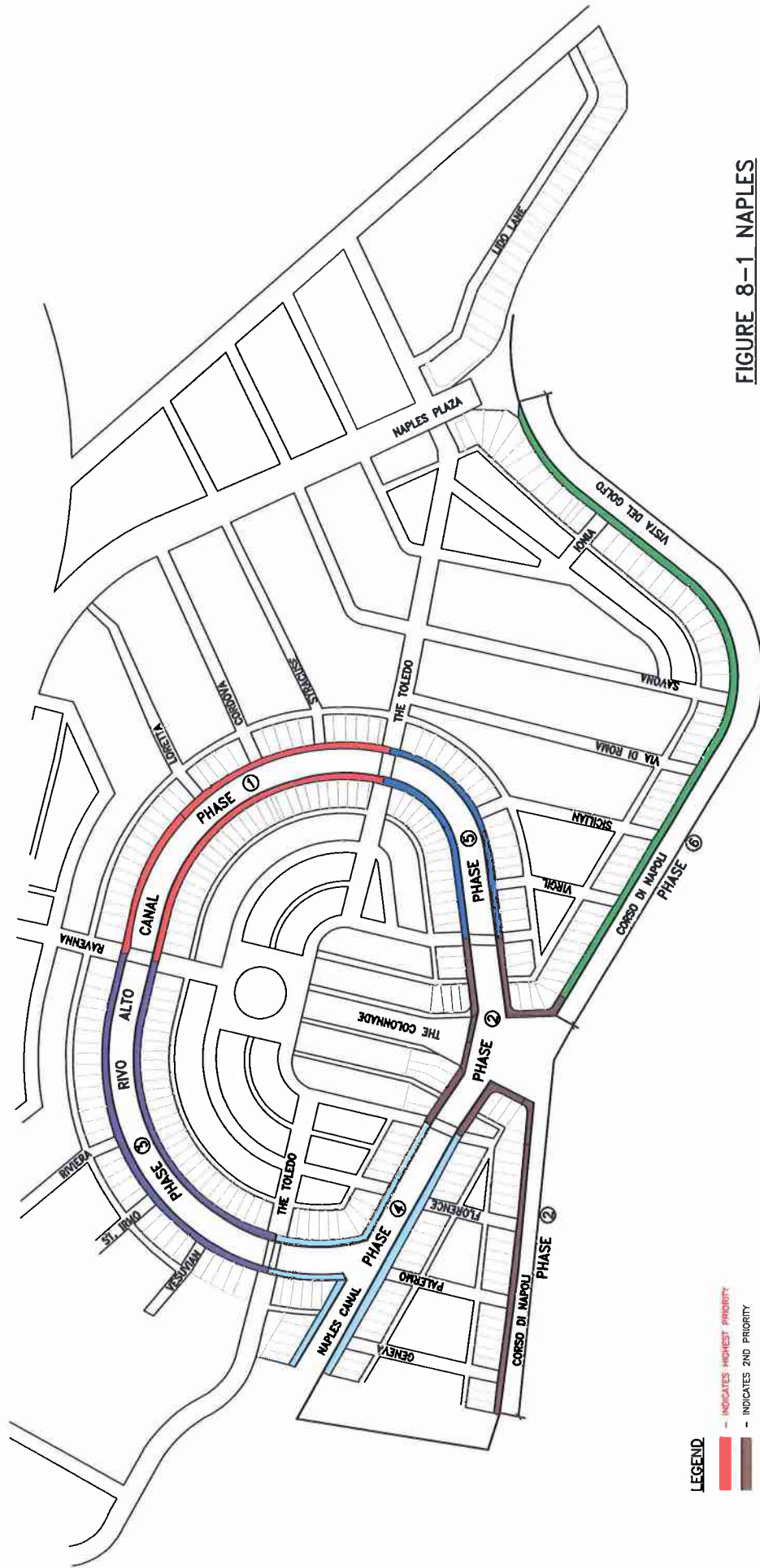


**NAPLES ISLAND
SEGMENT**

**TREASURE ISLAND
SEGMENT**

**LANDSIDE
SEGMENT**

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, UNO.

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

FIGURE 8-1

PROPOSED ORDINANCE
AMENDING LBMC CHAPTER 16.08

ADD:

• 16.08.212 - Naples Public Seawall Area.

"Naples Public Seawall Area" means those areas in Alamitos Bay with public seawalls within the community of Naples located approximately between:

A. The Ravenna Drive Bridge and The Toledo Bridge (on the East end of Naples Island) in the Northeast Quadrant of the Rivo Alto Canal, and commonly referred to as the Phase One area.

B. The West Neapolitan Lane Bridge and the East Neapolitan Lane Bridge in the canal entrance segments located South of Naples Island, and along E. Corso Di Napoli on Treasure Island between 5561 and 5679 E. Corso Di Napoli, and commonly referred to as the Phase Two area.

C. The Toledo Bridge (on the West end of Naples Island) and Ravenna Drive Bridge in the Northwest Quadrant of Naples Island along the Rivo Alto Canal, and commonly referred to as the Phase Three area.

D. The Western entrance to the Naples Canal and the W. Neapolitan Lane Bridge, and between The Toledo Bridge (on the West end of Naples Island) and the Naples Canal, and commonly referred to as the Phase Four area.

E. The E. Neapolitan Lane Bridge and The Toledo Bridge (on the East end of Naples Island) in the Southeast Quadrant of Naples Island along the Rivo Alto Canal, and commonly referred to as the Phase Five area.

F. 5711 E. Corso Di Napoli and 5999 E. Corso Di Napoli along Alamitos Bay and between 1 Vista Del Golfo and 99 Vista Del Golfo, along Alamitos Bay, and up to Naples Plaza Park, and commonly referred to as the Phase Six area.

AMEND:

• 16.08.740 - Pierhead and bulkhead lines established.

Pierhead and bulkhead lines are established for the Long Beach Marina area as the lines are shown on Drawing No. ~~E-146~~ [INSERT NEW DRAWING NUMBER], prepared by and on file in the office of the City Engineer, which drawing is entitled "Harbor Lines Alamitos Bay" and is dated ~~April 2, 1954~~ [INSERT NEW DRAWING DATE], as thereafter revised.

AMEND:

• **16.08.850 - Seawall permit and fees.**

A.

Seawall mooring permit and fee.

1. Except in the Naples Public Seawall area subject to Section 16.08.850.B, the fee owner of real property fronting on a waterway within the Long Beach Marina area who has a structure connected to a publicly owned seawall, which structure was constructed pursuant to a permit issued by the Director, pursuant to Sections 16.08.750, 16.08.760 or 16.08.780, shall obtain a permit for every vessel moored thereat from the Director and shall pay annually to the City, in addition to the fees prescribed in Section 16.08.760, a seawall mooring fee in the amount prescribed in regulations enacted pursuant to Section 16.08.970.

2. Vessels under ten feet (10') moored to davits for which a permit has been obtained pursuant to Section 16.08.760 shall be exempt from the seawall mooring fee.

B.

Public seawall mooring lease permit and fee.

The fee owner of real property fronting on a waterway within the Naples Public Seawall area, who has a structure connected to a publicly owned seawall, which structure was constructed pursuant to a permit issued by the Director, pursuant to Sections 16.08.750, 16.08.760 or 16.08.780, shall obtain a lease permit as set forth by Resolution [INSERT RESOLUTION NUMBER] or any successor resolution, for the limited-term private use and occupancy of public waterways and shall pay annually to the City, in addition to the fees prescribed in Section 16.08.760, a rental fee related to such use and occupancy in the amount prescribed in regulations enacted pursuant to Section 16.08.970.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH APPROVING A PUBLIC SEAWALL MOORING LEASE PROGRAM AND A MODEL PUBLIC SEAWALL MOORING LEASE PERMIT TEMPLATE

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

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

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

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

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 to 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 _____, 2015 by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

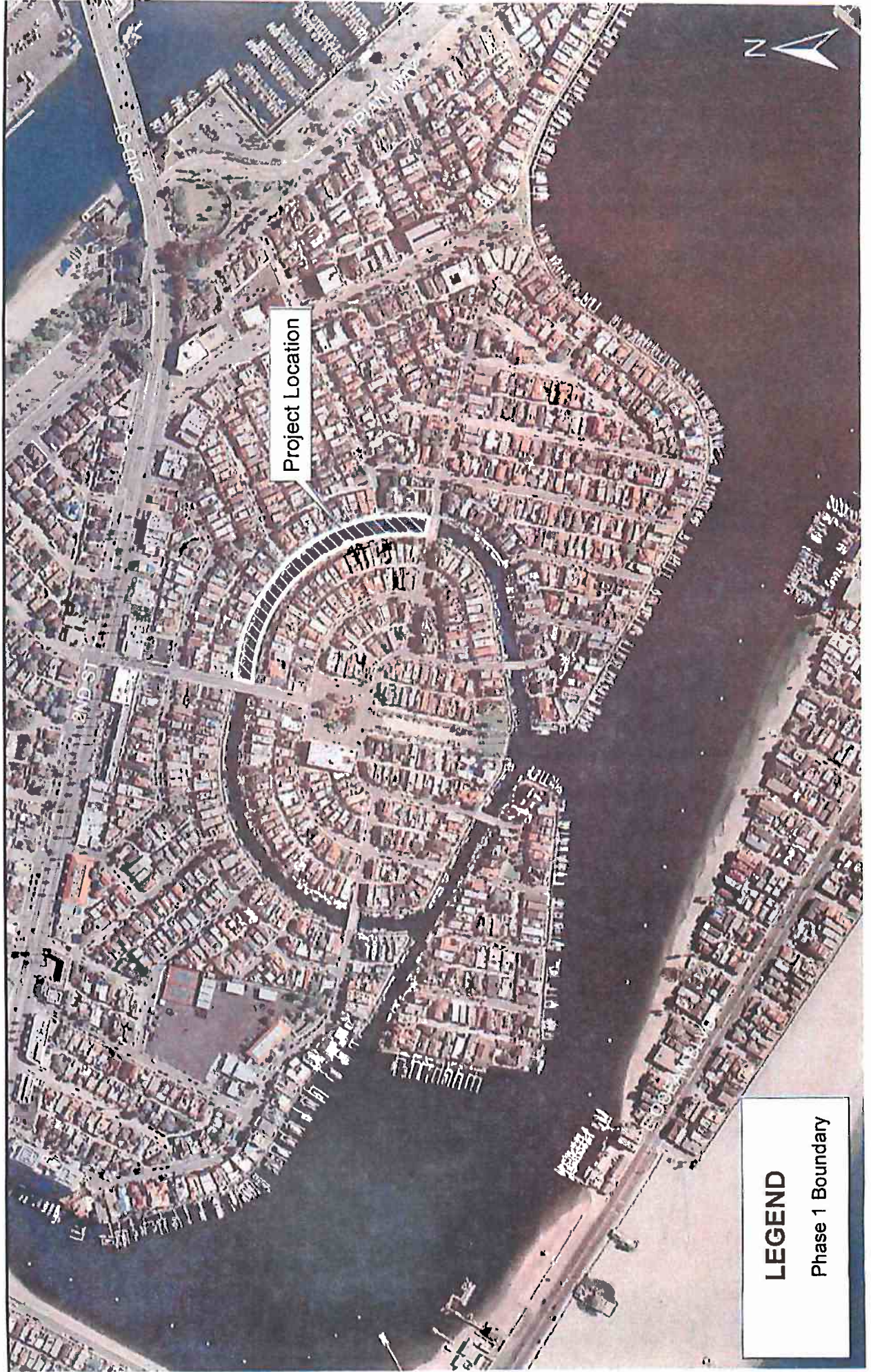
City Clerk

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

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"

1 PUBLIC SEAWALL MOORING LEASE PERMIT

2
3 This Public Seawall Mooring Lease Permit ("Lease Permit") is granted this
4 ____ day of _____, 20__, pursuant to Resolution No. _____
5 adopted by the City Council of the City of Long Beach ("City") at its meeting of June 16,
6 2015, to _____ ("Permittee"), whose address is
7 _____, for the limited-term private use and occupancy of
8 public waterways located upon tidelands, as more particularly described and depicted in
9 Exhibit "A" ("Premises"), which is attached hereto and incorporated by reference.

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

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

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

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

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



Date: May 7, 2015
To: Honorable Mayor and Members of the City Council
From: Patrick H. West, City Manager *P.H.W.*
Subject: Private Lease of Public Waterways, Naples Island Permanent Seawall Repair (Phase One)

The purpose of this memorandum is to introduce the process for complying with a special condition of approval imposed on the City of Long Beach by the California Coastal Commission (CCC) related to the Naples Seawall Repair Project. The CCC requires the City to implement a new lease program for private use of public waterways in the project area, which is located in the northeast quadrant of Naples Island, between the Ravenna Bridge and the eastern portion of The Toledo Bridge. The City Council will need to adopt a new lease program in June 2015.

Attached to this memo are the details of the City's proposed lease program to adhere to the Coastal Commission requirement. The lease program was designed with the following criteria in mind:

- This program will only affect those properties where new public seawalls were installed;
- This program is designed so that the average user will pay approximately what they are currently paying;
- The new lease program should generate at least the same level of revenue as the current fees;
- The new program will use pricing that is competitive, based on local market conditions;
- The program will generate revenue that can recover costs associated with operations, repair, and maintenance of public seawalls, tidelands areas, and associated public rights of way.

The City will host a public meeting to discuss these proposed changes and to get feedback from the community. City staff is also scheduled to discuss these proposed changes at the May 14, 2015 Marine Advisory Commission meeting. The item will then be brought forward to City Council for a hearing. All changes to the schedule of fees and charges require fourteen (14) day public noticing before being brought to Council. Once approved by Council, new fees and charges become effective immediately.

- Marine Advisory Commission – Thursday May 14, 2015 at 2:30 pm
- Public Meeting – Thursday, May 21, 2015 at 6:00 pm
- City Council – Tuesday, June 9, 2015
- Lease Implementation – June 9, 2015 onward

May 7, 2015

Page 2

In addition to these public meetings, the City is attending the Naples Improvement Association Board meeting on May 7, 2015 at 7:00 pm at the Long Beach Yacht Club.

For additional information or questions on the program, please contact Rachael Tanner, Program Specialist, at (562) 570-6999.

cc: Charles Parkin, City Attorney
Laura Doud, City Auditor
Tom Modica, Assistant City Manager
Arturo Sanchez, Deputy City Manager
Jyl Marden, Assistant to the City Manager
George Chapjian, Director, Department of Parks, Recreation, and Marine
Elvira Hallinan, Manager, Marine Bureau
Eric Lopez, Tidelands CIP Officer

PHW; EOL:rat

Q:\Tidelands Capital Projects\PW8110-17 Naples Seawalls Phase II\Fees for Public Docks\City Council\Dock Lease Program Memo 5.6.15.docx

Public Seawall Mooring Lease Proposed Program Design

Introduction

This report provides details regarding the City's proposed Public Seawall Mooring Lease Program. This lease program will affect the owners of docks, piers, and floats attached to public seawalls in Rivo Alto Canal from the Ravenna Bridge to the eastern portion of The Toledo Bridge. The report discusses the impetus for the proposed program, methodology used in designing the program, as well as program implementation.

Executive Summary

The proposed annual rent is \$0.50 per square foot of water space occupied by docks, floats, gangways, or piers, including berthing space surrounding the structures. For most users, this rent results in a lower annual payment. The proposed lease term would be for five (5) years. At the conclusion of five years, the property owner would be required to renew the lease. The Marine Bureau would administer the lease program. Revenue from the rent is assigned to help maintain new infrastructure in the canal and the adjacent public rights of way.

Background

On June 15, 2010, the Long Beach City Council authorized \$9.5 million in funding for the Naples Seawall Repair Project. Funded with Tidelands Funds, the Project seeks to permanently address the serious infrastructure concerns with the seawalls surrounding Naples Island. Permanent repair of the entire system has been divided into six phases, with Phase One addressing the area in the most imminent danger of collapse.

On October 9, 2013, the CCC unanimously approved the City's application to proceed with the Naples Island Permanent Seawalls Repairs, Phase One (Phase One). The CCC imposed 17 special conditions of approval. Special Condition #10 requires the City to institute a new lease program for dock floats and piers in the Phase One project area. The condition 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. The City currently charges two different fees related to private docks and piers in public waterways, but does not have a formal, temporal lease program as required by the CCC.

Specifically, Special Condition #10 states:

Dock Float and Pier Leases Prior to the placement of any dock floats into Rivo Canal after the completion of the approved Phase One seawall repairs, the applicant shall institute a lease program for the project area (at a minimum, the Phase One area), with appropriate prices established in relation to the lease area and temporal length of each lease. The lease program shall allow for the limited-term private use and occupation of state tidelands for development associated with recreational boating activities (i.e., private docks and piers). The money generated

by the leases shall be deposited into the City's Tidelands Fund to be utilized for public access improvements, including the public walkway required by Special Condition Fourteen of this coastal development permit, and future seawall repairs.

Presently, individuals who moor private property to public seawalls pay an annual Seawall Mooring Fee. The fee is set at \$10.10 per lineal foot of vessel docked or moored to private docks that are adjacent to public seawalls. The Marine Bureau, in compliance with the Long Beach Municipal Code, performs annual safety inspections of all private docks. The associated Harbor Structure Inspection Fee is exclusively to recover the cost of the inspections. Of these fees, only the Seawall Mooring Fee is being considered for revision pursuant to Coastal Development Permit No 5-11-085. Attachment B, Summary of Existing Fees for Alamitos Bay, provides more detail regarding these two fees.

Methodology

The Long Beach City Council has adopted a policy of full cost recovery for fees and charges when appropriate. As such, these Marine Bureau fees are intended to recover the full cost of the City's private dock inspection program, and the operation and maintenance of the public seawalls and adjacent right of way areas. While the City does not typically pursue full cost recovery for capital improvement projects, it is important to ensure that the costs of the Marine Bureau for maintaining the new seawalls and associated improvements are fully recovered. This will help ensure the expected 75-year useful life of the new seawalls. As outlined below, staff is proposing to modify the Seawall Mooring Fee and convert it to a lease program: The Public Seawall Mooring Lease Program. The rent related to the program is designed to approximate the current annual amount charged to the majority of dock owners.

The Tidelands CIP Division has employed several methods in order to establish an appropriate lease rate and developed several criteria to guide the assessment. Criteria included:

- This program will only affect those properties where new public seawalls were installed;
- This program is designed so that the average user will pay approximately what they are currently paying;
- The new lease program should generate at least the same level of revenue as the current fees;
- The new program will use pricing that is competitive, based on local market conditions;
- The program will generate revenue that can recover costs associated with operations, repair, and maintenance of public seawalls, tidelands areas, and associated public rights of way.

Towards this end, the City sampled the current fees paid by residents of the Phase One area who have docks and vessels in the canal. The sample provided a baseline of costs

to compare to proposed lease rates. In addition, the City retained the services of Netzer and Associates to conduct an evaluation of Fair Market Rent for submerged tidelands located adjacent to the residential properties around Alamitos Bay and Naples Island. Netzer and Associates also provided profiles of the costs of renting a slip at private and public marinas as well as the fees charged in other coastal communities. Finally, the contractor and engineer assigned to the Phase One project are developing a maintenance and repair program schedule that will allow the City to preserve the aesthetics of the area, as well as maximize the useful life of the new seawalls and associated improvements. Though the schedule is not yet complete, revenue from the rent is assigned to help maintain new infrastructure, which includes storm drains, catch basins, stairs, benches, the irrigation system, handrails, guardrails, and the steel piles.

Proposed Rent

The proposed annual rent is \$0.50 per square foot of water space occupied by docks, floats, gangways, or piers, including berthing space surrounding the 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. The length of the berthing area follows the contours of the dock. By incorporating the berthing area in the rent, the City can ensure that every dock owner pays fairly and equally for the use of the public waterways, including, but not limited to, the possibility of mooring a vessel to the dock. Administration of the lease program becomes clearer, as staff do not have to monitor if a boat is permanently moored at the property in order to determine the annual assessment. Additionally, the Marine Bureau has a practice of prorating the existing fee at a property owner's request if, for example, the vessel is moored there for part of the year. This process, which requires an inordinate amount of staff time, would not be needed under the new lease program.

In the Phase One project area, this lease program would replace the \$10.10 per lineal foot Seawall Mooring Fee. The City proposes to maintain the \$50 Annual Harbor Structure Inspection Fee, which covers important safety inspections of all private docks. Attachment C, Table 1, provides details regarding the lease rate. For the average dock, the City does not expect this new program to cost more than the current fee structure. Out of five typical users sampled, the lease rates are slightly lower for four of the five users under the proposed methodology. Users that have a dock, but do not have a vessel on record will have to pay more; such users currently pay only \$50 annually for the Harbor Inspection and nothing for their dock, float, or pier.

Comparison to Market Rent and Other Jurisdictions

As mentioned above, a number of factors were included in the generation of the lease rate, including the cost of providing services and comparison to the market. The City of Newport Beach recently adopted a rate of \$0.50 per square foot per year for residential tidelands. An appraisal conducted in 2014 using a State Lands Commission methodology concluded that \$0.26 was the fair market rent in Long Beach for rent alone. That rent,

however, did not incorporate the costs of the services and maintenance provided to the area, which are substantial, and used public and private marinas as the comparison, which are different from exclusive use of public waterway. To show how this compares to a public marina, a 20 foot slip in Alamitos Bay Marina costs \$179.50 per month (\$2,154 annually) or \$403.82 per month (\$4,846 annually) for a 30 foot slip—several times the amount of the proposed rent.

Finally, the proposed rate will be comparable to neighbors on Naples Island who have not received the new seawalls. While the methodology is different, the annual amount collected on average will be similar to what neighbors are currently paying. In the sample of 5 docks used to illustrate the change, the current average is \$205.54 per year, while the new average rent under the proposed structure would be \$215.06. Attachment C provides further detail on the rates per the 5 properties. Given this information, staff believes the rate of \$0.50 per square foot will be in line with the market, will appropriately charge for the benefit of using public waterway, and help cover the costs associated with the maintenance, repair and services in the area.

Implementation

The Public Seawall Mooring Lease Program shall only apply in the Phase One area of Sewall Repairs, which is in Rivo Alto Canal from the Ravenna Bridge to the eastern portion of The Toledo Bridge. The CCC may require expansion of the lease area during subsequent phases of seawall repair. If such a condition is imposed on the City of Long Beach, the policies and rates will be reviewed for appropriateness of application in other areas. Alterations or changes may be made at that time.

After City Council considers the proposal and adopts a new lease program, the City Attorney's Office, Tidelands CIP, and the Marine Bureau will work together to ensure that all residents who plan to maintain docks and vessels in the Phase One area sign new leases. Per the CCC Special Condition, the new lease agreements must be in place before any docks can be reinstalled in Phase One.

Lease Terms

The proposed lease term would be for five (5) years. At the conclusion of five years, the property owner would renew the lease. In addition, a new lease agreement would be entered into when a property is sold or when a new dock or pier is installed. The payment would be made on an annual basis and cannot be waived in whole or in part. The fee may be prorated upon the sale of the property or if a property owner removes structures and vessels from the water.

SUMMARY OF EXISTING FEES FOR ALAMITOS BAY**SEAWALL FEES - Seawall Mooring Fee:**

Fee: \$10.10 per lineal foot of vessel docked/moored in private docks in Alamitos Bay

Billed: Once per year – normally in September

Revenue: \$330,000 estimated

Process: Every owner of a private slip connected to a public seawall in Alamitos Bay must report all vessel(s) docked or moored on the docks, to the Marine Bureau, throughout the year.

Each month, Marine Bureau staff take a boat check of all docks, noting all vessels moored on the docks. The Marina Agent then reconciles the boat check information with the vessel permits, to ensure that all vessels have a permit through the Marine Bureau. If there are non-permitted vessels, the Marina Agent contacts the property owners to update the permits and/or write new permits. While checking boats, the Marina Agent is looking for illegal mooring, damaged docks, illegal dock construction/repairs, and property line and pierhead line encroachment.

INSPECTION FEE - Harbor Structure Inspection Fee:

Fees: All Annual Fees:
\$44.50 (float and brow);
\$49.55 (float, brow and pier);
\$28.30 (davits)

Billed: Once per year – normally in January

Revenue: \$25,000 estimated

Process: The Marine Bureau makes an annual inspection of all private docks to check for the condition of the docks, including decking, structural members, flotation, connection points and wood damage. Additionally, the Marina Agent checks that the dock matches the configuration originally approved by the City.

If any dock is not in proper condition, the property owner is contacted to make repairs, and is instructed on the proper way to permit the repair or replacement of the dock or structure. The Marina Agent also looks for unauthorized/illegal attachments to the seawall, and works with Public Works to ensure that illegal structures are removed.

ATTACHMENT C

Table 1: Fee Proposals for Private Lease of Public Waterways

| Example Property | Dock or Pier (sq ft) | Vessel (lineal feet) | Vessel (sq ft) | Berthing Area (sq ft) | Seawall Mooring Fee; existing (annual) | Lease Program; New (annual) |
|--|----------------------|----------------------|----------------|-----------------------|--|--|
| Example 1 | 237.5 | 21 | 168 | 77.5 | \$262.10 | \$207.50 |
| Example 2 | 225 | 18 | 126 | 153 | \$231.80 | \$239.00 |
| Example 3 | 172.5 | 20 | 140 | 117.3 | \$252.00 | \$194.90 |
| Example 4 | 300 | 0 | 0 | 15 | \$50.00 | \$207.50 |
| Example 5 | 210 | 18 | 117 | 142.8 | \$231.80 | \$226.40 |
| Harbor Inspection Fee (unchanged) | | | | | | |
| Seawall Mooring Fee (existing) vs. Public Seawall Mooring Lease Program (new) | | | | | | |
| | | | | | \$50 Annual Harbor Inspection Fee | \$50 Annual Harbor Inspection Fee |
| | | | | | \$10.10 per Lineal Foot of Vessel per year | \$0.50 per Square Foot, Dock & Berthing Area |

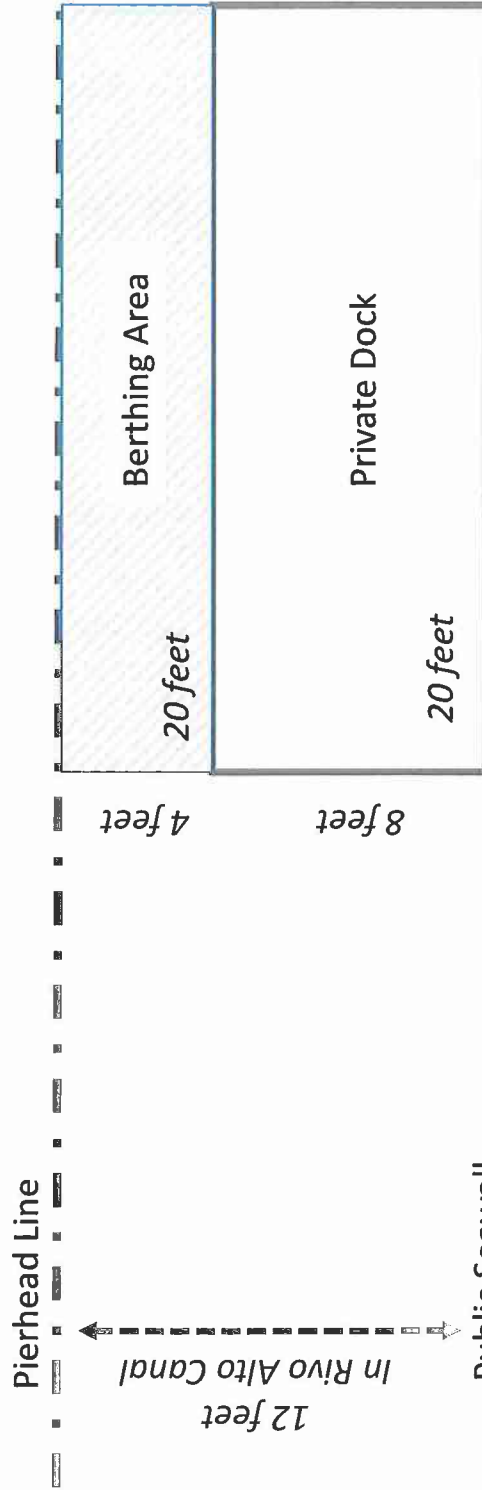
Attachment F

| 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 | |

Attachment G

Sample Public Seawall Lease Permit Fee

Private Dock ft² 8 x 20 = **160 ft²**
 Berthing Area ft² 4 x 20 = **80 ft²**
Total Area **240 ft²**
 Public Seawall Lease \$0.50 * 240 =
 Permit Fee \$120 annually



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RESOLUTION NO.

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.

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

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

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

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

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

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKER, City Attorney
333 West Ocean Boulevard, 11th 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 _____, 2015 by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

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 | | |