

**STAFF REPORT
C36**

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A. Franzoia

GENERAL LEASE – OTHER

APPLICANT:

Association of Surfing Professionals, LLC (dba World Surf League)

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

1,000 acres, more or less, of sovereign land in the Pacific Ocean, offshore of Pillar Point and Pillar Point Harbor, near Princeton-by-the-Sea and Half Moon Bay, San Mateo County.

AUTHORIZED USE:

Temporary use to conduct a professional surfing contest commonly known as the Mavericks Challenge.

LEASE TERM:

The sooner of 5 years, beginning October 1, 2018 or the completion of one Mavericks Challenge event.

CONSIDERATION:

\$600 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$10,000,000 per occurrence.

Surety:

\$3,000

Other:

Lessee shall submit a live video/audio stream of the event via the Internet and photo verification, at no cost, to the State Lands Commission.

Lessee shall provide at least 5 digital photographs of the surf competition, with copyright license permissions from the copyright

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holder(s) for Lessor's use of the photographs. The copyright license permissions must allow for the Commission's ongoing use of the photographs for public-facing materials, including but not limited to Commission print, electronic, and online publications and presentations, and the Commission's website.

Lessee shall ensure that winners in the Women's Division and the Men's Division of the Mavericks Challenge receive equal compensation for each category. As such, the first place winner, second place winner, and any other participant level that receives prize money in the Men's Division shall be awarded identical sums of prize money, other prizes, goods, or other compensation as the first place winner, second place winner, and any other participant level that receives prize money in the Women's Division.

Lessor authorizes the use of state lands for the Mavericks Challenge as represented by Lessee. As such, Lessor authorizes this event with the understanding that the Challenge will include: (1) at least 10 female competitors in the Women's Division; (2) multiple heats in the Women's Division; (3) equal provision of any and all benefits, including logistical support, to competitors in both the Women's Division and the Men's Division; and (4) equal opportunities and access for members of the media, regardless of gender.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501, and 6503; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

Pillar Point is at the northern most point of Half Moon Bay near the seaside resort of Princeton-by-the-Sea, near El Granada along U.S. Highway 1, in San Mateo County.

The Mavericks Surf Contest began as a recreational pursuit in the 1960s by local surfers. In 1990, Jeff Clark, a respected big-wave surfer, led a group of surfers to surf the break at Pillar Point, which later became known as Mavericks. The first competition was held in 1999 and is now held annually, conditions permitting. Since then, interest has continued to grow, with private invitations sent to professional big-wave surfers from around the world.

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In 2015, Titans of Mavericks, LLC, a wholly owned subsidiary of Cartel Management, Inc., started promoting an invitation-only professional surfing contest to be held on only one day between November 1 and March 31 at an area of the Pacific Ocean located offshore approximately 0.5 mile from Pillar Point.

Under the Commission's authority, the Executive Officer issued a Letter of Non-Objection (LON), dated December 28, 2015, to Cartel Management, Inc. for the use of an offshore area in the Pacific Ocean near Pillar Point for the invitation-only Titans of Mavericks Surf Contest. The LON required that Cartel Management, Inc. submit a lease application, which was submitted on November 4, 2016.

On January 31, 2017, Cartel Management, Inc. and Titans of Mavericks, LLC filed for Chapter 11 Bankruptcy protection. On September 21, 2017, the Bankruptcy Court approved the sale of Titans of Mavericks to the Applicant. On October 6, 2017, the sale closed, and now the Applicant has submitted an application for a lease.

The proposed lease is for a professional surfing contest that is held for one day each year under specific conditions that generate big waves, in excess of 20 feet, offshore of Pillar Point. A limited number of men (24) and women (6) professional surfers proficient in big wave surfing are invited and given 24-hour notice to attend the event. Competitors come from California and other parts of the world. Invitations went out to women for the first time in 2017. However, the last time the event took place was on February 12, 2016.

Public access to the shoreline during the event is prohibited for safety reasons due to heavy surf conditions and steep cliffs, and public viewing is prohibited from the bluffs above Pillar Point that contain sensitive habitat. Public access to the surfing area is prohibited for safety reasons and only surfer support and safety vessels are permitted during the event. Due to the lack of public access, the event has been televised to a broader audience all over the world.

Surfing is a worldwide recreational water sport, and professional surfing promotes the beauty and athletic skill of surfing. California's shoreline is host to innumerable recreational and water-oriented uses including surfing. Use of public waters for a temporary, one day professional surfing event promotes water-oriented recreational use and is generally consistent with the common law Public Trust Doctrine.

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The Commission has broad discretion to issue leases for the use of Public Trust lands. While surfing is a water dependent form of recreation that is typically considered to be a Public Trust consistent use, there are additional components of the Mavericks Challenge that should be taken into account as part of the Commission's consideration. This event, while temporary, is a large commercial operation that requires exclusive use of state lands and resources. Over the years, the surfing conditions at this location have become world famous and a matter of great public interest. The Mavericks Challenge takes place when conditions are ideal for experienced big wave surfers. Authorizing the Applicant to have exclusive use of state lands when these conditions are present requires that certain safety precautions must be taken since surfing in the area can be dangerous. However, at the same time, the lease would give the Applicant sole control to determine who is and isn't qualified to participate in the competition, and the majority of the public will be prohibited from entering the area during this time.

While safety concerns make it infeasible to open up this area to all surfers, the Commission's consideration includes whether authorizing exclusive use to this Applicant is in the best interests of the state. This includes considering how the Applicant intends to run the competition and ensure equity among its participants. Staff believes it is in the best interests of the state to require the event to implement certain measures to promote equity by requiring that the amount of compensation awarded to any participants does not depend on gender for the reasons described below.

Staff has received inquiries expressing concern about the lack of equity in the competition between female and male athletes. Staff has independently evaluated the issues raised relating to equity among athletes participating in the Mavericks Challenge. The Public Trust Doctrine at its foundation is a common law doctrine that requires the state to protect and manage its tide and submerged lands for the benefit of all the people of California. A core principle of the Commission's draft Environmental Justice Policy is to promote the fair treatment of people of all races, cultures, national origins, genders, gender identities, gender expressions, religions, sexual orientation, and socioeconomic status concerning the implementation and enforcement of laws and regulations within the Commission's jurisdiction. The Maverick's Challenge is unique among surfing contests around the world due to its popularity and intrigue. The Mavericks Challenge relies solely on the exclusive access to and use of public lands and resources to ensure a successful contest. In fact, the core element and major draw of the Mavericks Challenge are the waves, a public resource on public lands. The waves do not discriminate. Male

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athletes are surfing and competing on the same waves as the female athletes. While, according to staff's understanding, the prize formula is based on the number of female and male athletes competing, the Applicant has sole discretion in determining the standards participants must meet in order to qualify for the event. So other than the participation evaluation process which is controlled solely by the Applicant, there doesn't appear to be any reasonable justification to treat prize compensation differently for female athletes versus male athletes.

Historically, this well-known event has not allowed female contestants to participate. However, working with the California Coastal Commission, the Applicant has committed to taking steps to opening the competition to female athletes and creating a Women's Division. To codify these important commitments and address any pay disparity issues, staff proposes specific language be added to the lease to clarify expectations and ensure equitable treatment of female athletes who will be competing in the Mavericks Challenge for the first time. By including provisions that require equal benefits, opportunities, and prize money, the Commission will ensure that this temporary but exclusive use of public lands is equitable for all participants regardless of gender.

Because the underlying activity of surfing is Public Trust consistent and this event promotes water-related activity, Commission staff believes this use of public land, by a private entity, is consistent with the common law Public Trust doctrine.

Based on the foregoing, staff believes that a one-day, professional surfing event will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease and is in the State's best interest.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. The Committee for Equity in Women's Surfing has contacted the Commission and the California Coastal Commission to express concerns and suggestions for ensuring that female participants are able to participate in a way that is equitable (Letter attached as Exhibit C).

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3. The lease requires the Lessee to obtain and maintain all required permits or other entitlements and to provide Lessor with copies upon request.
4. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304, example (e).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

OTHER AGENCY APPROVALS:

California Coastal Commission
Monterey Bay National Marine Sanctuary
San Mateo County Harbor District Permit
United States Coast Guard

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Letter from the Committee for Equity in Women's Surfing

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304, example (e).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation, recreation, and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Other to the Association of Surfing Professionals, LLC (dba World Surf League), beginning October 1, 2018, for a term of 5 years or the completion of one Mavericks Challenge

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event, whichever comes first, for temporary use of sovereign land to conduct a professional surfing contest commonly known as the Mavericks Challenge as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: \$600 per year, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$10,000,000 per occurrence; and a surety in the amount of \$3,000. This authorization to enter into a lease with the Applicant shall expire if the Applicant does not return an executed lease to Commission staff within 45 days of this authorization.