

MINUTE ITEM

This Calendar Item No. 18
was approved as Minute Item
No. 18 by the State Lands
Commission by a vote of 3 CALENDAR ITEM
to 0 at its 12/19/77
meeting. 18.

12/77
WP 4737
Atkins
PRC 4737

AMENDMENT AND ASSIGNMENT OF
A COMMERCIAL LEASE

BACKGROUND:

Gulf Oil Corporation and the State of California entered into a Lease Agreement in the Huntington Harbour Area of Orange County dated August 9, 1973. This lease was assigned to Robert F. Maguire III, Richard P. Roe and Robert F. Maguire Jr. in September of 1973 for marina purposes. The consideration in this lease was \$300 per annum until such time as improvements were placed on the leased area. When this occurred the lease payment was to be 6% of the appraised value of the State land. An additional feature of this lease was a building restriction that was placed over a portion of the leased area so that there would be no interference with an adjacent lease. This lease provided for a term of 16 years with the option to renew for 3 periods of 11 years each.

This original lease was generated as the result of a Boundary Line and Exchange Agreement, the lease being partial consideration for the Agreement. Provision was made for public liability insurance in the amount of \$600,000 for bodily injury and \$50,000 property damage, and a bond of between \$10,000 and \$25,000 at the lessor's discretion.

CURRENT SITUATION:

The Division has now been requested to assign this lease to the Huntington Partnership and amend the lease to include a larger area, remove the building restriction and agree to allow United California Bank to have a security interest in the lease. Applicants would also like to exercise the first option to renew. The original lease is described in Exhibit A-1, and the additional area in Exhibit A-2.

The staff recommends that the area described in Exhibit A-1 be leased under the terms

A 73
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and conditions that were agreed to in the original lease, except the building restriction contained in paragraph five of this lease shall be waived. It may be waived because the lessee has obtained the necessary permits to build in the restricted area. They have also agreed to not interfere with any adjacent State lessee, and have agreed to indemnify the State against any claims the adjacent lessee may make.

The additional area they desire to lease shall be leased at 8% of fair market value, with the provision for a 5-year rent review. Also recommended is the approval of a security interest by United California Bank in the property.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Div. 6, Parts 1 & 2.
- B. Administrative Code: Title 2, Div. 3,
Arts. 1, 2, 6.5,
10 & 11.

OTHER PERTINENT INFORMATION:

1. A cumulative Environmental Impact Report was approved by the State Lands Commission at its March 25, 1976 meeting. The impact of future development of Huntington Harbour was included in this cumulative report. The report concluded that there does not seem to be any significant adverse impacts which will be created by the development plan as it relates to recreation. A Notice of Determination has been received.
2. This project is situated on State land identified as possessing significant environmental values pursuant to Public Resources Code 6370.1, and is classified in a use category, Class C which authorizes Multiple Use.

Staff has coordinated this project with those agencies and organizations who nominated the site as containing

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significant environmental values. They have found this project to be compatible with their nomination.

APPROVALS OBTAINED:
U. S. Corps of Engineers, Coastal Zone,
City of Huntington Beach.

FURTHER APPROVALS REQUIRED:
None.

EXHIBITS: A-1., A-2. Land Descriptions. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT A CUMULATIVE ENVIRONMENTAL IMPACT REPORT FOR THIS PROJECT WAS APPROVED BY THE STATE LANDS COMMISSION AT ITS MEETING ON MARCH 25, 1976.
2. DETERMINE THAT THE PROJECT IS CONSISTENT WITH THE PROVISIONS OF ARTICLE 6.5 OF TITLE 2, OF THE CALIFORNIA ADMINISTRATIVE CODE.
3. FIND THAT GRANTING OF THE LEASE WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE PUBLIC RESOURCES CODE.
4. AUTHORIZE THE AMENDMENT AND ASSIGNMENT OF LEASE PRC 4737.1 FROM ROBERT F. MAGUIRE III, RICHARD P. ROE AND ROBERT F. MAGUIRE JR. TO THE HUNTINGTON PARTNERSHIP.
5. AUTHORIZE THE REMOVAL OF A BUILDING RESTRICTION CONTAINED IN LEASE PRC 4737.1 UNDER PARAGRAPH FIVE.
6. AUTHORIZE AN ANNUAL RENTAL OF 6% OF FAIR MARKET VALUE FOR THE AREA DESCRIBED IN EXHIBIT A-1, UPON CONSTRUCTION, AND 8% OF FAIR MARKET VALUE FOR THE AREA DESCRIBED IN EXHIBIT A-2, TO BE EFFECTIVE IMMEDIATELY, WITH A 5-YEAR RENTAL REVIEW.
7. AUTHORIZE THE ASSIGNMENT OF A SECURITY INTEREST TO UNITED CALIFORNIA BANK.
8. AUTHORIZE THE PROVISION FOR A \$20,000 SURETY BOND AND PUBLIC LIABILITY INSURANCE IN THE AMOUNT OF \$600,000 FOR BODILY INJURY AND \$50,000 FOR PROPERTY DAMAGE.

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9. AUTHORIZE THE USE OF THE AREAS DESCRIBED IN EXHIBITS A-1 AND A-2 FOR THE OPERATION AND MAINTENANCE OF A COMMERCIAL MARINA.

Attachments: Exhibits A-1, A-2

A parcel of land 40 feet in width within a channel 400 feet wide in Fractional Section 19, T. 5 S., R. 11 W., SBB&M in the County of Orange, State of California, as per map recorded in Book 51, Page 13 of Miscellaneous Maps, records of said County, bounded as follows:

1. On the southwest by the southwesterly line of a channel 400 feet wide, said southwesterly line being the northwesterly prolongation of the southwesterly line of a channel 400 feet wide deeded to the State of California by Huntington Harbour Corporation and described as Strip A in Corporation Grant Deed recorded December 20, 1962, in Book 6368, Page 411, Records of Orange County.
2. On the northeast by a line parallel to said southwesterly line and 40 feet distant therefrom.
3. On the southeast by the northeasterly prolongation of the northwesterly line of Lot "B" in Tract No. 4499 as per map recorded in Book 161, Pages 11 to 15 inclusive of Miscellaneous Maps, records of said County.
4. On the northwest by the southwesterly prolongation of the northwesterly line of Rancho La Bolsa Chica as shown on map recorded in Book 58, pages 35 and 36, of Record of Surveys, records of said County.

Excepting therefrom the following two described areas:

AREA A

A parcel of land in Fractional Section 19, T. 5 S., R. 11 W., SBB&M in the County of Orange, State of California, as per map recorded in Book 51, Page 13 of Miscellaneous Maps, records of said County, bounded as follows:

1. On the southwest by the southwesterly line of a channel 400 feet wide, said southwesterly line being the northwesterly prolongation of the southwesterly line of a channel 400 feet wide deeded to the State of California by Huntington Harbour Corporation and described as Strip A in Corporation Grant Deed recorded December 20, 1962, in Book 6368, Page 411, Records of Orange County.
2. On the northeast by a line parallel to said southwesterly line of channel 400 feet wide and distant 40 feet therefrom.
3. On the east by the following two courses:

N. 5° 09' 07" E. 122.49 feet and
 S. 17° 29' 08" W. 97.42 feet,

said courses being the last two courses in that certain description of submerged land in Exhibit A of "Agreement Stipulating Ordinary Low Water Mark and Interests in Real Property" recorded March 7, 1963, in Book 6457, Page 813, Official Records of Orange County.

4. On the west by the southwesterly prolongation of the northwesterly line of Rancho La Bolsa Chica as shown on map recorded in Book 58, pages 35 and 36, of Record of Surveys, records of said County.

AREA B

A parcel of land in Fractional Section 19, T. 5 S., R. 11 W., SBB&M in the County of Orange, State of California, as per map recorded in Book 51, Page 13 of Miscellaneous Maps, Records of said County, bounded as follows:

1. On the southwest by the southwesterly line of a channel 400 feet wide, said southwesterly line being the northwesterly prolongation of the southwesterly line of a channel 400 feet wide deeded to the State of California by Huntington Harbour Corporation and described as Strip A in Corporation Grant Deed recorded December 20, 1962, in Book 6368, Page 411, Records of Orange County.
2. On the northeast by a line parallel to said southwesterly line of channel 400 feet wide and distant 40 feet therefrom.
3. On the west by the following two courses:
 $S. 03^{\circ} 34' 35'' E. 48.09$ feet and
 $S. 04^{\circ} 53' 57'' W. 70.26$ feet,

said courses being the third and fourth courses in that certain description of submerged land in Exhibit A of "Agreement Stipulating Ordinary Low Water Mark and Interests in Real Property" recorded March 7, 1963, in Book 6457, Page 813, Official Records of Orange County.

4. On the east by the southwesterly property line of the lands of Lomita Land and Water Company described in Deed recorded December 7, 1908, in Book 160, Page 282, Records of Orange County, said line also being the northeasterly property line of lands conveyed to Huntington Harbour Corporation by Merrill & Person by Quitclaim Deed recorded on September 28, 1961, in Book 5863, Page 186, Records of Orange County.

A parcel of land in Fractional Section 19, T. 5 S., R. 11 W., SBB&M in the County of Orange, State of California, as per map recorded in Book 51, Page 13, of Miscellaneous Maps, records of said County, described as follows:

Beginning at the point of intersection of the southwesterly prolongation of the northwesterly line of Rancho La Bolsa Chica as shown on map recorded in Book 3, Page 45 of Record of Surveys, records of said County, with the northeasterly right of way line of Pacific Coast Highway 100 feet wide as per deed recorded in Book 410, Page 165 of Official Records, records of said County; thence, N. $49^{\circ} 34' 33''$ E. (N. $49^{\circ} 34' 20''$ E. PM#) 481.74 feet to the most easterly corner of Tideland Location No. 141 as shown on said Record of Survey Map recorded in Book 3, Page 45, Records of Orange County; said easterly corner being the True Point of Beginning; thence, N. $12^{\circ} 03' 54''$ W. 79.63 feet along the easterly line, and its prolongation, of that parcel of land leased to Decon Corporation by the State of California and designated as State Lease P.R.C. 3376.1; thence, N. $49^{\circ} 34' 33''$ E. 185.81 feet; thence, S. $40^{\circ} 25' 27''$ E. 20 feet; thence, N. $49^{\circ} 34' 33''$ E. 80 feet; thence S. $61^{\circ} 00' 00''$ E. 54.41 feet to the southwesterly prolongation of the northwesterly line of Rancho La Bolsa Chica as shown on map recorded in Book 58, Pages 35 and 36 of Record of Surveys, Records of said County; thence, S. $49^{\circ} 34' 33''$ W. (S. $49^{\circ} 34' 20''$ W. PM#) along said southwesterly prolongation, 42.73 feet to a point on the northwesterly prolongation of the southwesterly line of a channel 400 feet wide deeded to the State of California by Huntington Harbour Corporation and described as Strip A in Corporation Grant Deed recorded December 20, 1962, in Book 6368, Page 411, Records of Orange County; thence, continuing along said southwesterly prolongation S. $49^{\circ} 34' 33''$ W. (S. $49^{\circ} 34' 20''$ W. PM#) to the True Point of Beginning.

NOTE: PM# -- Parcel Map, Book 27, Page 17, Orange County Records.

EXHIBIT "A-2"

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a parcel of land situated in Huntington Harbour Channel, Orange County, California, lying immediately adjacent to the land described as Parcels 1 and 2 in Exhibit 1 of the document recorded in Book 10855, page 538, Orange County Records, said parcel being described as follows:

BEGINNING at the most northerly corner of Parcel 2 as described in said document recorded in Book 10855, page 538; thence along the northwesterly line of Parcel 2, S 49° 34' 33" W, 80.00 feet; thence N 40° 25' 27" W, 20.00 feet; thence S 49° 34' 33" W, 185.31 feet; thence leaving said northwesterly line, N 41° 53' 34" E, 268.59 feet; thence along a line parallel with and 60 feet northeasterly of the southwesterly line of said parcel in the document recorded in Book 10855, page 538, S 61° 00' 00" E, 1360.92 feet; thence S 29° 00' 00" W, 20.00 feet to the northeasterly line of Parcel 1 as described in said document recorded in Book 10855, page 538; thence along the northeasterly line of Parcel 1, N 61° 00' 00" W, 1308.71 feet to the point of beginning.

END OF DESCRIPTION.

Prepared

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Checked

John K. King

Reviewed

St. K. Finnecke
8/10

Date

12/7/77