

City Calendar Item No. 2  
was approved as a public agency use  
No. 2 in the public agency  
Commission by a vote of 2  
to 0 at the 9/31/78  
meeting.

MINUTE ITEM

8/78  
Reese

2. GENERAL LEASE - PUBLIC AGENCY USE - CITY OF BRISBANE - W 21062

The attached Calendar Item C2 was taken off the consent calendar and considered as a separate item by the Commission.

Mr. Robert C. Hight, Chief Counsel, clarified the record by advising the subject recommendation did not involve an exchange of land.

Messrs. Richard Kerwin, City Manager, and George J. Silvestri, Jr., City Attorney, representing the City of Brisbane, appeared in support of the item. However, they voiced their objection to the lease not providing for a specific rental rate. Mr. James F. Trout, Chief, Division of Land Management and Conservation, explained that the staff was unwilling to make a long-term revenue commitment on a project where it was uncertain what the revenues would be. He indicated the staff could ultimately recommend that no rental be charged, but staff wanted to keep that option open. Because of the City's objection, Mr. Trout suggested the item could be deferred in order for the staff and City to research language in some legislative grants which defines a ceiling after which the State begins to share in excess revenue. Mr. Silvestri, however, stated he would prefer the matter be acted on at this meeting so they could proceed obtaining other approvals for their project. He mainly wanted to submit for the record the City's objection to the rental not being a set rate.

Upon motion duly made and carried, the resolution as presented in Calendar Item 2 was adopted by a vote of 2-0.

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CALENDAR ITEM

C2.

GENERAL LEASE  
PUBLIC AGENCY USE

8/78  
W 21062  
Roose  
PRC 5517

APPLICANT: City of Brisbane  
44 Visitacion Avenue  
Brisbane, California 94005

AREA, TYPE LAND AND LOCATION:  
Two parcels of tide and submerged land  
totaling 40.34 acres in San Francisco  
Bay within the City of Brisbane, San Mateo  
County. Two parcels of filled tide and  
submerged land at Sierra Point within the  
City of Brisbane, San Mateo County.

LAND USE: Construction of a public and commercial  
marina.

TERMS OF PROPOSED LEASE:  
Initial period: 35 years from July 1,  
1978.

Public liability insurance: Combined single  
limit coverage: \$1,000,000.

CONSIDERATION: Royalty \$.15/cu. yd. The public use and  
benefit with the State reserving the right  
to set a monetary rental upon completion  
of construction of the facilities.

BASIS FOR CONSIDERATION:  
Per Cal. Adm. Code, Article 2, Section 2005.

PREREQUISITE TERMS, FEES AND EXPENSES:  
Applicant is permittee, of upland.  
Processing costs have been received.

STATUTORY AND OTHER REFERENCES:  
A. Public Resources Code: Div. 6, Parts 1 & 2.  
B. Adm. Code: Title 2, Div. 3.

OTHER PERTINENT INFORMATION:  
1. A final EIR; was prepared by Environmental  
Science Associates, Inc., pursuant

CALENDAR ITEM NO. C2. (CONTD)

to CEQA and Implementing regulations.  
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 significant environmental values. They have found this project to be compatible with their nomination.

3. Further approvals required: Water Quality Control Board, United States Corps of Engineers, San Francisco Bay Conservation and Development Commission.

4. In regard to the filled tide and submerged lands (Parcels C and D, see Exhibit A), it is recognized that there is a question concerning the State's ownership in these parcels. Title to lands similar in nature is now being litigated in the case of Murphy, et al. v. City of Berkeley. In view of this uncertainty, staff has recommended certain special lease changes that are incorporated in Section 2 of the lease document. The lease document is attached and designated as Exhibit D.

EXHIBITS:

- |                      |  |
|----------------------|--|
| A. Land Description. | B. Location Map.                               |
| C. EIR Summary.      | D. Proposed General Lease - Public Agency Use. |

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS BEEN PREPARED FOR THIS PROJECT AND CERTIFIED BY CITY OF BRISBANE ON NOVEMBER 29, 1976.
2. CERTIFY THAT THE INFORMATION CONTAINED IN THE EIR OF CITY OF BRISBANE AS BEEN REVIEWED AND CONSIDERED BY THE COMMISSION.

CALENDAR ITEM NO. C2. (CONTD)

3. DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
4. FIND THAT ADEQUATE PROVISIONS HAVE BEEN MADE FOR THE PERMANENT PROTECTION OF THE SIGNIFICANT ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE PUBLIC RESOURCES CODE.
5. AUTHORIZE ISSUANCE TO CITY OF BRISBANE OF A 35-YEAR GENERAL LEASE - PUBLIC AGENCY USE FROM JULY 1, 1978, WITH CERTAIN LEASE MODIFICATIONS AS SHOWN IN SECTION 2 OF THE LEASE DOCUMENT ATTACHED HERETO, IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT; WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL AFTER COMPLETION OF THE CONSTRUCTION OF THE FACILITIES; PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF COMBINED SINGLE LIMIT COVERAGE \$1,000,000; FOR CONSTRUCTION OF A PUBLIC AND COMMERCIAL MARINA ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

EXHIBIT A

LAND DESCRIPTION

W 21062

All that certain real property situated in the State of California, County of San Mateo, City of Brisbane, described as follows:

PARCEL A - Marina Basin

A portion of Section 14, T.3S., R.5W., M.D.M., more particularly described as follows:

BEGINNING at a point that bears East, 1980 feet and South, 2640 feet from the common corner to Sections 10, 11, 14 and 15, said point also being the southeast corner of Tide Lot 11 in Section 14, T.3S., R.5W., M.D.B. & M., as shown on Map No. 1 of Salt Marsh and Tide Lands, situate in the County of San Mateo, State of California, prepared by order of the Board of Tideland Commissioners under the authority and in accordance with the provisions of an act entitled "An Act Supplementary to and Amendatory of an Act Entitled 'An Act to Survey and Dispose of Certain Salt Marsh and Tide Lands belonging to the State of California, approved March Thirtieth, Eighteen Hundred and Sixty Eight, approved April 1, 1870"; thence from said point of beginning North, 2640 feet along the easterly line of said Lots 11 and 6 of said Map No. 1; thence East, 660 feet; thence South, 2640 feet; thence West, 660 feet to the point of beginning. Containing 40 acres more or less.

PARCEL B - Approach Channel

BEGINNING at a point that bears East, 2640 feet and South 2640 feet from the abovementioned corner common to Sections 10, 11, 14 and 15, said point being 660 feet east of the southeast corner of Tide Lot 11 in Section 14, T.3S., R.5W., M.D.B. & M., as shown on Map of Map No. 1 of Salt Marsh and Tide Lands, situate in the County of San Mateo, State of California, prepared by order of the Board of Tide Land Commissioners under the Authority and in accordance with the provisions of an act entitled "An Act Supplementary to and Amendatory of an Act Entitled - An Act to Survey and Dispose of Certain Salt Marsh and Tide Lands Belonging to

to the State of California, approved March Thirtieth, Eighteen Hundred and Sixty-Eight, approved April 1, 1870"; thence from said point of beginning, South, 150 feet; thence S 45° E, 680 feet; thence N 72° E, 2,975 feet; thence South, 157.72 feet; thence S 72° W, 3,074.29 feet; thence N 45° W, 758.57 feet; thence North, 282.84 feet; thence East, 150 feet to the point of beginning.

EXCEPTING THEREFROM those interests-in-land transferred in trust to the City of South San Francisco by virtue of Chapter 345, Statutes of 1913 as amended.

PARCEL C - Portion of BTLC Lots 6, 7, 10 & 11

BEGINNING at the point of beginning of the above described Parcel "A" being the southeast corner of Tide Lot 11, thence West, 150 feet; thence North, 130 feet; thence East, 40 feet; thence North, 130 feet; West, 220 feet; North, 130 feet; West, 100 feet; thence N 68° 33' 08" W, 300.83 feet; thence North, 800 feet; thence N 68° 33' 08" E, 300.83 feet; thence East, 320 feet; thence North, 700 feet; thence East, 110 feet to the easterly line of the abovementioned Board of Tideland Commissioners Tide Lot 6; thence South, 2110 feet along the easterly line of Tide Lots 6 & 11 to the point of beginning.

EXCEPTING THEREFROM those interests-in-land, if any, which might have passed by virtue of a Board of Tide Land Commissioners deeds for tideland Lots 6, 7, 10 & 11, Section 14, T.3S., R.5W., M.D.M., as said lots are shown on "Map No. 1 of Salt Marsh and Tide Lands," situate in the County of San Mateo.

PARCEL D - Roadway Easement

A 50 foot wide strip of land for a Road Right-of-Way through Tideland Lots 9, 10 & 11, in Section 14, and Lot 16 in Section 15, T.3S., R.5W., M.D.M., as said lots are shown on "Map No. 1 of Salt Marsh and Tide Lands situate in the County of San Mateo."

EXCEPTING THEREFROM those interests-in-land, if any, which might have passed by virtue of the Board of Tideland Commissioners deeds to:

- 1) Emerson Corville for said tideland Lot 11;
- 2) J. A. Drinkhouse for said tideland Lots 9 & 10;
- 3) A. J. Bryant for said tideland Lot 16.

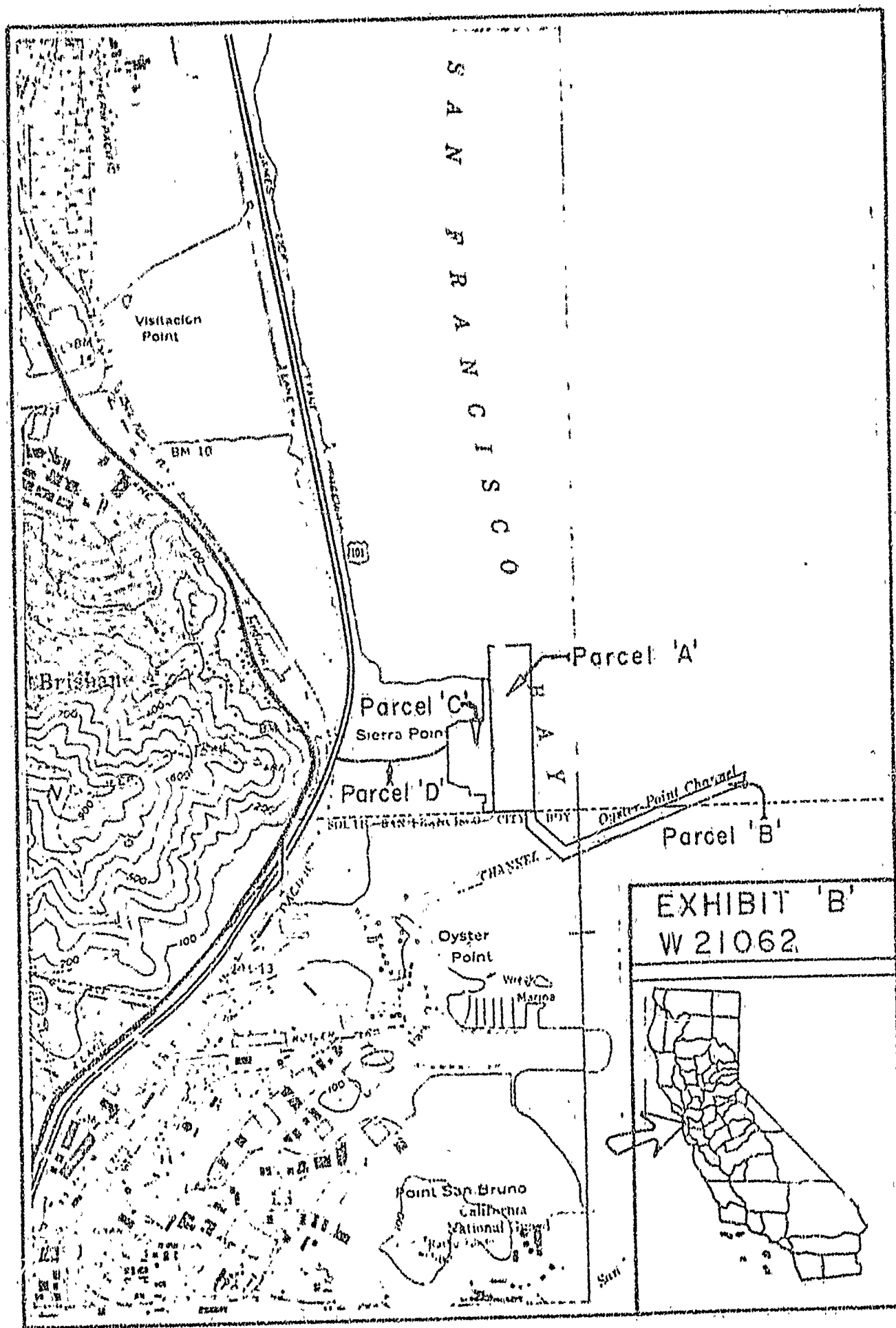
END OF DESCRIPTION

Prepared

Checked

Reviewed

Date



## EXHIBIT C

### ENVIRONMENTAL IMPACT REPORT SUMMARY

W 2106.

#### I. Introduction

Following is a summary of the environmental impact report for Sierra Point Marina, associated Development, and Fisherman's Park, prepared by the City of Brisbane.

#### II. Project Description

The proposed project includes the development of a public marina for 600 recreational boats with private ancillary facilities; a private marina with 180 boat slips; a residential and commercial park including condominium units, house boats, restaurants, shops, an office building and a hotel and convention center; a public bay-side park of up to 20 acres and a fisherman's park. The project will be located between Candlestick and Sierra Point, on the San Francisco Bay within the City of Brisbane, San Mateo County.

#### III. Present Environmental Setting

The project will be developed on mud flats and intertidal areas surrounding a completed sanitary landfill. The site is mainly barren and undeveloped with little vegetation or wildlife. Although a drainage stream along the western boundary supports a fresh-water habitat and the mud flats and intertidal areas provide a habitat for marine biota, aquatic life around the area is restricted. Wildlife includes small rodents, jackrabbits, reptiles and birds. One endangered animal species has been recognized (the California Brown Pelican) but no rare or endangered plant species were noted on the site.

#### IV. Environmental Impacts

As the site is presently barren and relatively unused, development of the area would provide numerous beneficial impacts. The proposed design and landscaping would greatly improve the visual quality of the area while providing additional wildlife habitat, particularly for birds. The construction of free-way access ramps will allow public access to the Sierra Point site and it is expected that the project would provide a net economic benefit to the city and county through taxes and the opening of numerous temporary and permanent jobs.

#### V. Adverse Environmental Effects

A major adverse effect associated with the project site could be differential settlement causing drainage problems, damage to utilities and potential overtopping of the east end. The decomposing solid waste on which the project will be built generates methane gas which could create a fire hazard, and excavation of an inner marina through the solid waste would likely cause an accumulation of toxic leachate. It is also possible that initial dredging operations and return flows from deeper spoils could have an adverse effect on bay water quality.

## VI. Mitigation Measures

To mitigate for the adverse effects, the following were offered:

1. Design features fully recognize possibilities for large settlement and provide for them.
2. Methane gas generation can be minimized by keeping the solid waste unsaturated with an impermeable soil layer and the gas hazard could be mitigated by a gas collection system.
3. Any leachate that accumulates will be discharged into the sewage system, rather than into the bay, to prevent danger to fish.
4. A dredge monitoring program should assure minimum impact during initial dredging, and spoil impoundments on site will be carefully designed to avoid discharging return flows into confined waters.

## VII. Alternatives Evaluated

Alternatives evaluated include:

- No project
- Develop the site as a regional park
- Develop the site as solely industrial or residential
- Develop the area as a regional shopping center
- Relocate the public marina leaving the remainder unchanged.

## VIII. Short-Term Use vs. Long-Term Benefits

Local short-term uses are proposed residential, commercial, and marina elements. Since the site is a sanitary landfill it is not potentially valuable for food production and the possible adverse impacts to its very limited natural ecosystem can be reduced by appropriate mitigation measures. The intensification of human oriented activities proposed by the project will therefore not be detrimental to the long-term utility of the site.

## IX. Irreversible Environmental Changes

The primary environmental change will be the conversion of an open, undeveloped land fill of 112 acres to an urbanized use. The economical investment at Alameda Point will be so great as to force the conclusion that the project represents an irreversible commitment of about half the site to structural development.

### A. Growth-Inducing Impacts

The greatest impact on population growth would occur locally as a result of the residential complex at Alameda Point. The estimated 784 new residents would increase Berkeley's present population by 28%. At full development, the proposed complex would support an estimated 560 new employees. These new employees and their incomes would likely create a secondary or "multiplier" effect in the San Francisco-Oakland metropolitan area.

## EXHIBIT D

W 21062

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

LEASE NO. \_\_\_\_\_

Section 1

THE STATE OF CALIFORNIA, hereinafter referred to as "Lessor," acting through the State Lands Commission pursuant to Division 6 of the Public Resources Code and Title 2, Division 3, of the California Administrative Code, does hereby lease, demise and let unto:

LESSEE CITY OF BRISBANEwhose mail address is: 44 Visitation AvenueBrisbane, CA 94005

that certain land described in Section 4 of this Agreement, for such consideration, specific purposes and subject to the covenants, terms, conditions, reservations, restrictions and limitations as are set forth hereinafter:

LEASE TYPE: GENERAL LEASE - PUBLIC AGENCY USE

TERM: 35 Years; None Months; beginning July 1, 1978,  
ending June 30, 2013, unless sooner terminated as  
hereinafter provided.

RENEWAL OPTION: NoneCOUNTY: SAN MATEOLAND TYPE: As to Parcels A & B: Tide andSubmerged.As to Parcels C & D: Filled Tide andSubmerged Lands.

STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. \_\_\_\_\_

Section 1 (Continued)

LAND USE OR PURPOSE: Public and commercial marina facilities  
and associated development, including  
necessary dredging required therefor.

AUTHORIZED IMPROVEMENTS: As to Parcels A & B: City or City Lessee  
constructed improvements and related dredging as shown and/or  
described on Pages 1, 8 and 9 of the publication entitled  
"Feasibility Study Revision, Sierra Point Marina, Brisbane,  
California." As to Parcels C & D: City or City Lessee  
constructed improvements as shown and described on Pages 8 and 9  
of the publication entitled "Feasibility Study Revision, Sierra  
Point Marina, Brisbane, California."

LIABILITY INSURANCE: Each Occurrence

SURETY BOND: \$ N/A

Divided Limits:  
Bodily Injury \$ N/A

Property Damage: \$ N/A

OR

Combined Single  
Limit: \$ 1,000,000.00

CONSTRUCTION LIMITING DATES:

	MO.	DAY	YR.
Beginning	7	1	1978
Completion	7	1	1984

COMPOSITION OF AGREEMENT: This lease consists of the following parts all attached hereto and by reference made a part of the whole agreement:

Section 1 - Summary of basic terms, as above.

Section 2 - Special provisions amending or supplementing Section 1 or 5.

Section 3 - Consideration.

Section 4 - Land Description.

Section 5 - Standard covenants.

STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. \_\_\_\_\_

Section 2

CHANGES IN FORM: Before the execution of this lease, the printed form was changed, revised and added to in the following manner:  
It is agreed by and between the parties hereto as follows:

As to Parcels A and B:

1. Lessor reserves the right to set a monetary rental upon completion of construction of the facilities described in Section 1. If Lessor determines a monetary rental is warranted, the rental rate will be a percentage, based on analysis of market and other consideration of annual gross income; and/or 8 percent per annum of the appraised value of the State-owned land. The minimum rental under either above mentioned shall not be less than \$225.00 per annum.

As to Parcels C and D:

2. Lessor agrees to lease to Lessee any and all interest it may have in Parcels C and D. It is recognized that there is a question concerning the Lessor's ownership in these parcels. Title to lands similar in nature is now being litigated in the case of Murphy, et al. v. City of Berkeley, et al., Alameda County Superior Court No. 422942. In view of this uncertainty, a rental will not be charged at this time. However, the Lessor reserves the right, at any future time during the term of this lease, to set a monetary rental for its interests in Parcels C and D in accordance with the rent provided for in Paragraph 1 above.
3. Lessee shall furnish to Lessor at the time of execution of this lease a copy of all its leases, franchises, permits or other agreements with any third persons who are presently occupying any portion of the within lands described in Section 4.
4. It is hereby agreed that the dredging operations authorized under this lease shall be performed with diligence, in a good and workmanlike manner, using due care and safety precautions.

(continued on page 3A)

(Form 51.15 4/76)

1326

STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. \_\_\_\_\_

Section 2

CHANGES IN FORM: Before the execution of this lease, the printed form was changed, revised and added to in the following manner:

5. Paragraph 7, second sentence, of Section 5 is revised as follows:

"If such use is not commenced by Lessee on the land subject to this agreement within two (2) years of the beginning construction dates or within two (2) years of receipt of all necessary permits, leases, etc., needed prior to commencement of construction, or if such use on said land shall be discontinued for a period of two (2) years, this lease and the term thereof shall terminate upon notice to Lessee."

6. Paragraph 20(c), Section 5, is amended to include the following:

"Notwithstanding the insurance requirements of this Paragraph "(c)" and Section 1 of this lease, Lessee's insurance obligations thereunder may also be satisfied to the extent that Lessee can provide comparable protection for Lessee and the State by virtue of Lessee's participation in any "risk management", self-insurance program, insurance pooling arrangements or any combination of these, so long as such alternative has been reviewed and approved by Lessor".

7. Paragraph 21(a), Section 5, is amended to include the following:

"It is understood, by the parties, that subleasing of individual boats and/or boat slips will not be subject to the conditions described in this Paragraph "(a)".

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STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. \_\_\_\_\_

Section 3

CONSIDERATION:

ANNUAL RENTAL: ANNUAL RENTAL: Public use and benefit, with the  
State reserving the right to charge a rental per Section 2  
at such time as the State Lands Commission determines it  
to be in the State's best interest.

ROYALTY: As to Parcels A and B: Fifteen cents (\$.15) per cubic  
yard for material removed from State lands and not placed  
on lands under the jurisdiction of the State Lands Commission.

As to Parcels C and D: Fifteen cents (\$.15) per cubic  
yard for material removed from State lands and not placed  
on lands under the jurisdiction of the State Lands Commission.  
The preceding sentence will apply only if and when it  
is determined that the State has a leasable interest in  
Parcels C and D.

OTHER CONSIDERATION: \_\_\_\_\_