

MINUTE ITEM

This Calendar Item No. 24
was approved as Minute Item
No. 24 by the State Lands
Commission by a vote of 3
to 0 at its 5/29/80
meeting.

CALENDAR ITEM

24.

5/80
PRC 3376.1
Atkins

AMENDMENT
GENERAL LEASE
COMMERCIAL USE

BACKGROUND:

On July 17, 1979, the Commission approved the assignment of Lease PRC 3376.1 as amended, to the Huntington Partnership. This lease provided for a term of 30 years beginning August 1, 1979, an annual rental based upon 6% of gross income with a \$4,600 minimum; a provision for liability insurance of \$1,000,000 combined single limit, and a lease area to contain a maximum of 40 boat slips. The facility covered by this lease is a commercial marina.

On October 29, 1979, the Commission approved various amendments to this lease to meet both the lessee's needs and the Commission's requirements, including the following:

1. A 43-year lease term, commencing December 1, 1979, with the right to review the rental after 25 years.
2. A construction beginning date of May 1, 1980, with completion by May 1, 1981.
3. The deletion of certain inappropriate standard lease covenants.
4. Provision for a \$0.25 a cubic yard royalty for any material dredged and removed from the lease area.
5. The addition of 43 boat slips, and a minimum annual rent of \$9,000.
6. The recognition that 10% of the boat slips may be utilized for liveboards.
7. Approval of a lease Security Agreement with the lessee, the State and California Federal Savings and Loan Association.

CURRENT SITUATION:

The lessee has contacted the Staff of the Commission concerning additional amendments to their lease. These

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amendments are necessary to assist the lessee from an operational standpoint, and make the lease more attractive to a project lender. The staff recommends the following amendments:

1. The term of the lease shall be 42 years commencing June 15, 1980. This reduction in the lease term will allow adjacent leases to run consecutively.
2. The annual rental shall be subject to renegotiation should the project Preliminary Slip Layout Plan be changed pursuant to actions of other governmental agencies.
3. A construction beginning date of December 1, 1980, with completion by December 1, 1981. This change is necessary due to delays in the project construction timetable from what was originally anticipated.
4. The royalty shall be set at \$0.15 a cubic yard for any material removed from the lease area, and not sold commercially. The royalty shall remain \$0.25 a cubic yard for material removed from the lease area which is sold commercially. No royalty shall be charged for material removed from the lease area, which is placed on publicly owned land in an approved disposal site.
5. The Lessor shall not unreasonably withhold consent to an assignment of the lease.
6. The lease must be appurtenant to an access or use right with respect to littoral land.
7. Delete standard lease covenants 2a(3)(non-monetary consideration), and 5c(R/W), which are inappropriate to this type of transaction.
8. The State reserves the right for a rent review after 25 years.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2.

B. Cal. Adm. Code: Title 2, Div. 3.

OTHER PERTINENT INFORMATION:

1. The Commission made all appropriate environmental and significant land

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findings concerning this lease, at its July 17, 1979 and October 29, 1979 meetings.

2. This project is currently being reviewed by the Coastal Commission, Regional Water Quality Control Board, and United States Army Corps of Engineers.
3. The lessee has requested that the Commission delegate authority to the Executive Officer for the selection of a project lender to be granted a Security Agreement interest in lease PRC 3376.1. Previously the Commission authorized California Federal Savings and Loan Association to have a Security Agreement interest in this lease. However, due to uncertainty concerning the indemnity of the project lender it is requested that the selection of the party to be granted this interest be delegated to the Executive Officer.

EXHIBITS A. Land Description. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE COMMISSION MADE ALL APPROPRIATE ENVIRONMENTAL AND SIGNIFICANT LAND FINDINGS CONCERNING LEASE PRC 3376.1 AS AMENDED AT ITS MEETINGS ON JULY 17, 1979 AND OCTOBER 29, 1979.
2. AUTHORIZE THE AMENDMENT OF LEASE PRC 3376.1, A GENERAL LEASE - COMMERCIAL USE FROM JUNE 15, 1980, WITH THE HUNTINGTON PARTNERSHIP AS LESSEE, TO A FORM WHICH IS ON FILE IN THE OFFICE OF THE COMMISSION, ON THE LAND DESCRIBED IN EXHIBIT "A", WHICH IS ATTACHED AND BY REFERENCE MADE A PART HEREOF.
3. AUTHORIZE THE ENCUMBERANCING OF LEASE PRC 3376.1 WITH A SECURITY AGREEMENT WITH A LENDER WHICH IS ACCEPTABLE TO THE EXECUTIVE OFFICER OF THE COMMISSION.

EXHIBIT "A"

LAND DESCRIPTION

WP 3376

A parcel of submerged land in the State-owned channel of Huntington Harbour, fractional Section 19, T5S, R11W, and fractional Section 24, T5S, R12W, SBM, in the City of Seal Beach, Orange County, California, described as follows:

BEGINNING at the most easterly corner of Tideland Location No. 141, as shown upon that certain map filed in Book 3, Page 45, Record of Surveys, Orange County Recorders Office, thence the following five courses:

1. N 73° 45' 00" W 545.24 feet (along the northeasterly line of said Tideland Location No. 141).
2. N 16° 15' 00" E 260.00 feet;
3. S 73° 45' 00" E 598.66 feet;
4. S 41° 53' 59" W 210.65 feet;
5. S 12° 03' 54" E 79.63 feet to the point of beginning.

END OF DESCRIPTION

Prepared J. H. Kunnicke

Checked J. J. [Signature]

Reviewed Gary A. [Signature]
[Signature]

Date 6/29/79

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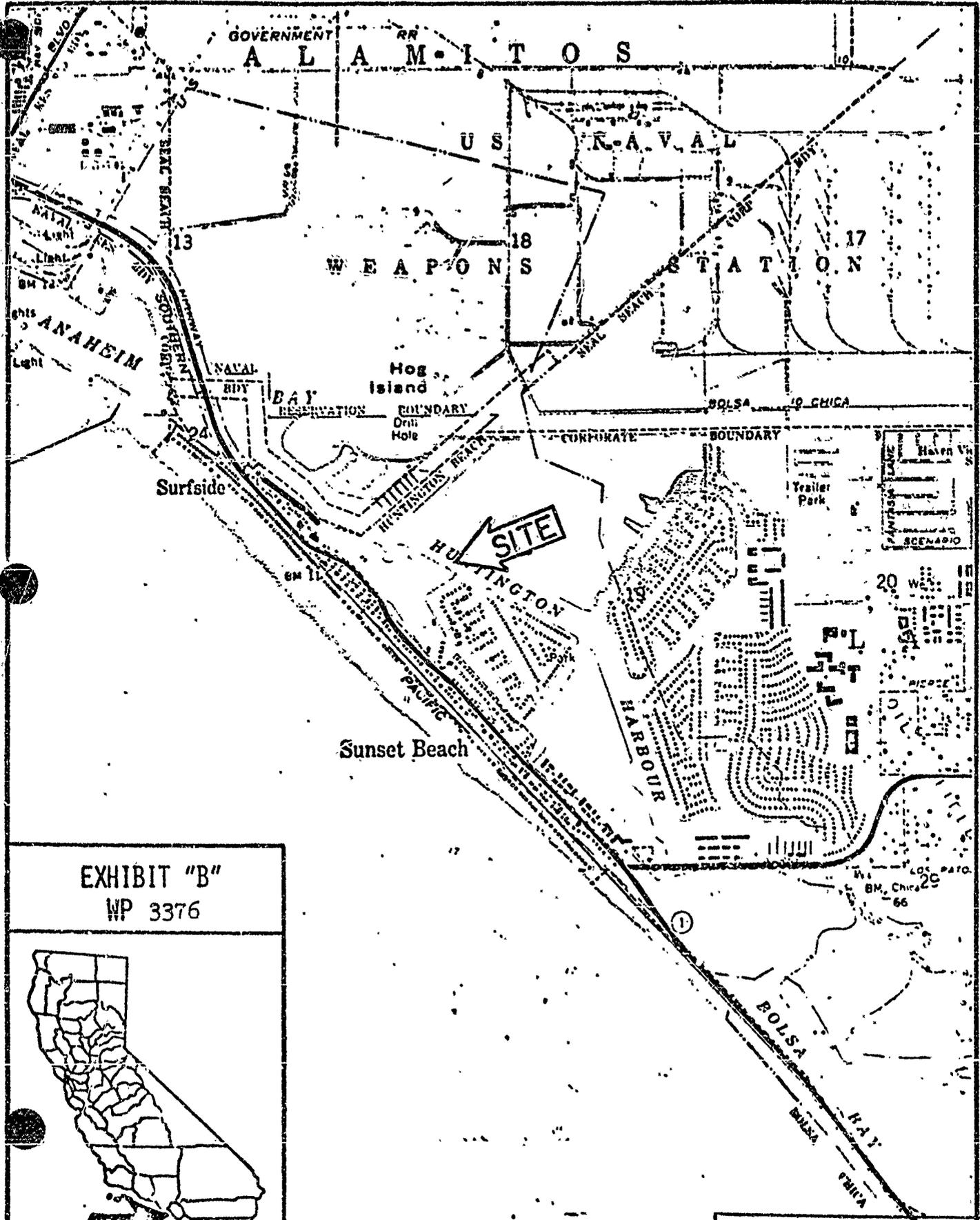


EXHIBIT "B"
WP 3376

