MINUTE ITEM

This Calendar Item No. C08

CALENDAR ITEM

A 58

S 37

C08

11/21/85
PRC 3376
PRC 4737
Townsend

ASSIGNMENT OF TWO GENERAL LEASES - COMMERCIAL USE; CONSENT TO ENCUMBRANCING OF LEASES; AND APPROVAL AND AUTHORIZATION TO EXECUTE AN ESTOPPEL CERTIFICATE

ASSIGNOR: The Huntington Partnership
Attn: Michael Croft
c/o Maguire Thomas Partnership
1299 Ocean Avenue, Suite 1000
Santa Monica, California 90401

ASSIGNEE: 16400 PCH Associates
Attn: Brigitta Troy
c/o Pacific Financial Group
9107 Wilshire Boulevard, Suite 200
Beverly Hills, California 90210

PRC 3376:

AREA, TYPE LAND AND LOCATION:
A 3.25-acre parcel of tide and submerged land located in the Huntington Harbour Main Channel, City of Huntington Beach; Orange County.

LAND USE: Commercial Marina.

TERMS OF LEASE:

Initial period: 42 years beginning June 15, 1980.

Surety bond: $5,000.

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

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Consideration: Six percent of gross income, $0.01/gallon of fuel sold to 100,000 gallons and $0.015/gallon over 100,000 gallons; minimum annual rental of $5,000; 25th year rent review.

Royalty: A royalty of $0.15 per cubic yard for any material removed from the lease area and not sold commercially. The royalty is $0.25 per cubic yard for material removed from the lease area and 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.

PRC 4737:

AREA, TYPE LAND AND LOCATION:
Two parcels of tide and submerged land, totalling 2.341 acres, located in the Huntington Harbour Main Channel, City of Huntington Beach; Orange County.

LAND USE: Commercial Marina.

TERMS OF LEASE:

Initial period: 16 years beginning August 17, 1973 with three renewal options of 11 years each. The first two options were exercised.

Surety bond: $20,000.

Public liability insurance: $600,000 for bodily injury and $50,000 for property damage.

Consideration: Parcel 1 - $20,553.60 per annum. Rent review - 16th year and each 11th year renewal option.

Parcel 2 - $24,570 per annum. Five-year rent review.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Processing costs for both leases have been received.

STATUTORY AND OTHER REFERENCES:
A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

AB 884: N/A.

OTHER PERTINENT INFORMATION:
1. PRC 4737 was originally issued to Gulf Oil Corporation in 1973, as partial consideration for a Boundary Line Agreement. The lease was later assigned to R. F. Maguire, et al., for marina purposes, and in 1977 was assigned to the Huntington Partnership.

   PRC 3376 was originally issued to Decon Corporation in 1965. Following subsequent assignments and amendments of the lease, sale of the upland property, and pending litigation between Decon, the State, and the new upland owner, in 1979 the lease was assigned to the Huntington Partnership, an adjacent State lessee under PRC 4737, for expansion of its marina operation.

2. The subject leases presently cover a large portion of the affluent commercial marina known as "Peter's Landing." The Huntington Partnership is in the process of selling the marina and its upland holdings to 16400 PCH Associates, a California partnership, and has requested the Commission grant its consent to assign the leases.

3. The proposed assignee has requested consent to encumber the leases in conjunction with obtaining a loan from Union Bank. A copy of the encumbrancing agreement is on file in the offices of the State Lands Commission.

4. As a part of this transaction, the proposed assignee has also requested that an Estoppel Certificate be executed on behalf of the Commission which confirms the current status of the leases. A copy of the Estoppel Certificate is attached hereto as Exhibit "A".

5. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. However, the Commission has declared that all tide and submerged lands are "significant" by nature of their public ownership (as opposed to "environmental significant"). Since such declaration of significance is not based upon the requirements and criteria of P.R.C. 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by 2 Cal. Adm. Code 2954 is not applicable.

6. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: 14 Cal. Adm. Code 15061(b)(3).

EXHIBITS:

A. Estoppel Certificate.
B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.

2. FIND THAT THE SIGNIFICANT ENVIRONMENTAL VALUES ORIGINALLY IDENTIFIED PURSUANT TO P.R.C. 6370, ET SEQ., ARE NOT WITHIN THE PROJECT SITE AND WILL NOT BE AFFECTED BY THE PROPOSED PROJECT.

3. APPROVE AND AUTHORIZE THE EXECUTION OF THE ESTOPPEL CERTIFICATE ATTACHED AS EXHIBIT "A".

4. AUTHORIZE THE ASSIGNMENT OF LEASE PRC 3376 AND PRC 4737 TO 16400 PCH ASSOCIATES, EFFECTIVE DECEMBER 3, 1985, AND CONSENT TO ENCUMBRANCING OF THE LEASES BY UNION BANK, FOR COMMERCIAL MARINA PURPOSES.

5. FIND THAT ALL OTHER TERMS AND CONDITIONS OF LEASES PRC 3376 AND PRC 4737 SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

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EXHIBIT "A"

STATE OF CALIFORNIA
STATE LANDS COMMISSION
KENNETH CORY, *Controller*
LEO T. McCARTHY, *Lieutenant Governor*
JESSE R. HUFF, *Director of Finance*

GEORGE DEUKMEJIAN, *Governor*
EXECUTIVE OFFICE
1807 - 13th Street
Sacramento, California 95814
CLAIRE T. DEDRICK
Executive Officer

File Ref.: PRC 4737.1
PRC 3376.1

ESTOPPEL CERTIFICATE

Date: _____, 1985

16400 PCH Associates
c/o Pacific Financial Group
9107 Wilshire Boulevard, Suite 200
Beverly Hills, CA 90210

Re: Peter's Landing
Huntington Beach, California

Gentlemen:

The State of California, acting by and through the State Lands Commission (hereinafter referred to as "Lessor"), is the holder of all right, title and interest of the lessor under the ground leases (the "Ground Leases") described in Paragraph 1 of Exhibit A attached hereto and incorporated by reference herein. The Lessor understands that (i) 16400 PCH Associates, a California _____ partnership (hereinafter referred to as "Purchaser"), may be acquiring all of the interest of the Huntington Partnership, a California limited partnership (hereinafter referred to as "Huntington"), as the lessee under the Ground Leases and (ii) that Purchaser may rely upon this certificate in connection with such acquisition (the "Acquisition").

With such understanding, the Lessor hereby confirms for the benefit of the Purchaser and its respective successors and assigns, that, as of the date hereof:

1. To the best of Lessor's knowledge, the Ground Leases are presently in full force and effect and, except as may be set forth in Paragraph 1 of Exhibit A hereto, have not been amended or assigned, and there are no other agreements between Huntington and the Lessor relating to the real property covered by the Ground Leases.

2. Annual Rent under the Ground Leases, which does not include any percentage rent, fuel rent or dredging royalties, has been paid through the date hereof. The amount of accrued but unpaid rent as of the date hereof is set forth in Paragraph 2 of Exhibit A hereto, and, with the exception of such accrued rent, if any, there are no amounts or charges currently accrued, outstanding or payable under the Ground Leases, except as may be otherwise stated in Paragraph 3 of Exhibit A hereto.

3. The amount and date of the most recent payment received under each Ground Lease is set forth in Paragraph 4 of Exhibit A hereto.

4. To the best of Lessor's knowledge, there are no defaults under the Ground Leases, nor does any state of facts exist which, with the passage of time or the giving of notice, or both, would ripen into any such defaults.

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5. The Acquisition does not violate or constitute a default under the Ground Leases; provided however, that the parties to the Acquisition obtain the Lessor's prior written consent thereto.

6. To the best of Lessor's knowledge, the information set forth in Exhibit A hereto is true and correct.

7. The Lessor and the person executing this certificate on behalf of the Lessor have the power and authority to render this certificate.

Very truly yours,

State of California
State Lands Commission

By_____

Title_____

cc: Dave Durrett
Les Grimes
Lance Kiley
Alan Scott
Debbie Townsend

Michael W. Croft, Director
Financial Planning
Maguire/Thomas Brothers
1299 Ocean Avenue, Suite 1000
Santa Monica, CA 90401

EXHIBIT A

1. DESCRIPTION OF GROUND LEASES

A. PRC 4737.1

(i) That certain ground lease by and between the State of California, as lessor, and the Gulf Oil Corportion, as lessee, recorded August 17, 1973 in Book 10855, at Page 538 of the Official Records of Orange County, California.

(ii) That certain Assignment of Wharfage Lease recorded November 12, 1973, in Book 10984, at Page 757 and on November 21, 1973 in Book 10998, at Page 804, both in the Official Records of Orange County, California and pursuant to which lessee's interest under said lease was assigned to Robert F. Maguire III, Richard P. Roe and Robert F. Maguire, Jr.

(iii) That certain Deed recorded October 15, 1974 in Book 11264, at Page 1781 of the Official Records of Orange County, California, pursuant to which the interest of lessee under said lease was conveyed to The Huntington Partnership.

(iv) That certain Amendment and Assignment of Lease PRC 4737.1 recorded October 13, 1978 in Book 12881, at Page 56 of the Official Records of Orange County, California, which document added a parcel 5 to the leased premises and assigned a security interest to United California Bank.

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(v) That certain Lease Quitclaim Deed recorded June 23, 1980 in Book 13642, at Page 1213 of the Official Records of Orange County, California.

(vi) That certain Amendment and Renewal of Lease PRC 4737.1 dated September 29, 1981, by and among the State of California, as lessor, The Huntington Partnership, as lessee, and California Federal Savings and Loan, as Secured Party-Lender.

B. PRC 3376.1

(i) That certain ground lease by and between the State of California, as lessor, and The Huntington Partnership, as lessee, with Crocker National Bank designated as Secured Party-Lender, recorded October 21, 1981 in Book 14262, of Page 1815 of the Official Records of Orange County, California.

(ii) That certain letter agreement by and between the State of California and Crocker National Bank, dated January 15, 1982 by the State of California and dated February 1, 1982 by Crocker National Bank.

2. AMOUNT OF ACCRUED BUT UNPAID RENT

A. Percentage rent for the current year, if any, has not yet been paid and must be paid on or before April 15, 1986.

B. Fuel rent for the current year, if any, has not yet been paid and must be paid on or before April 15, 1986.

C. Dredging royalties for the most recent calendar quarter, if any, have not yet been paid and must be paid on or before January 25, 1986.

3. OTHER AMOUNTS OR CHARGES

In collecting percentage rent, fuel rent and dredging royalties, LESSOR has relied on the reports supplied by Lessee. Other amounts or charges may be due if Lessee failed to accurately sate its sales or dredging activity in such reports.

4. MOST RECENT PAYMENT RECEIVED UNDER EACH GROUND LEASE

A. PRC 4737.1

(i) Date of Payment: July 19, 1985.

(ii) Amount of Payment: $45,123.60.

B. PRC 3376.1

(i) Date of Payment: November 19, 1985.

(ii) Amount of Payment: $7,627.97.

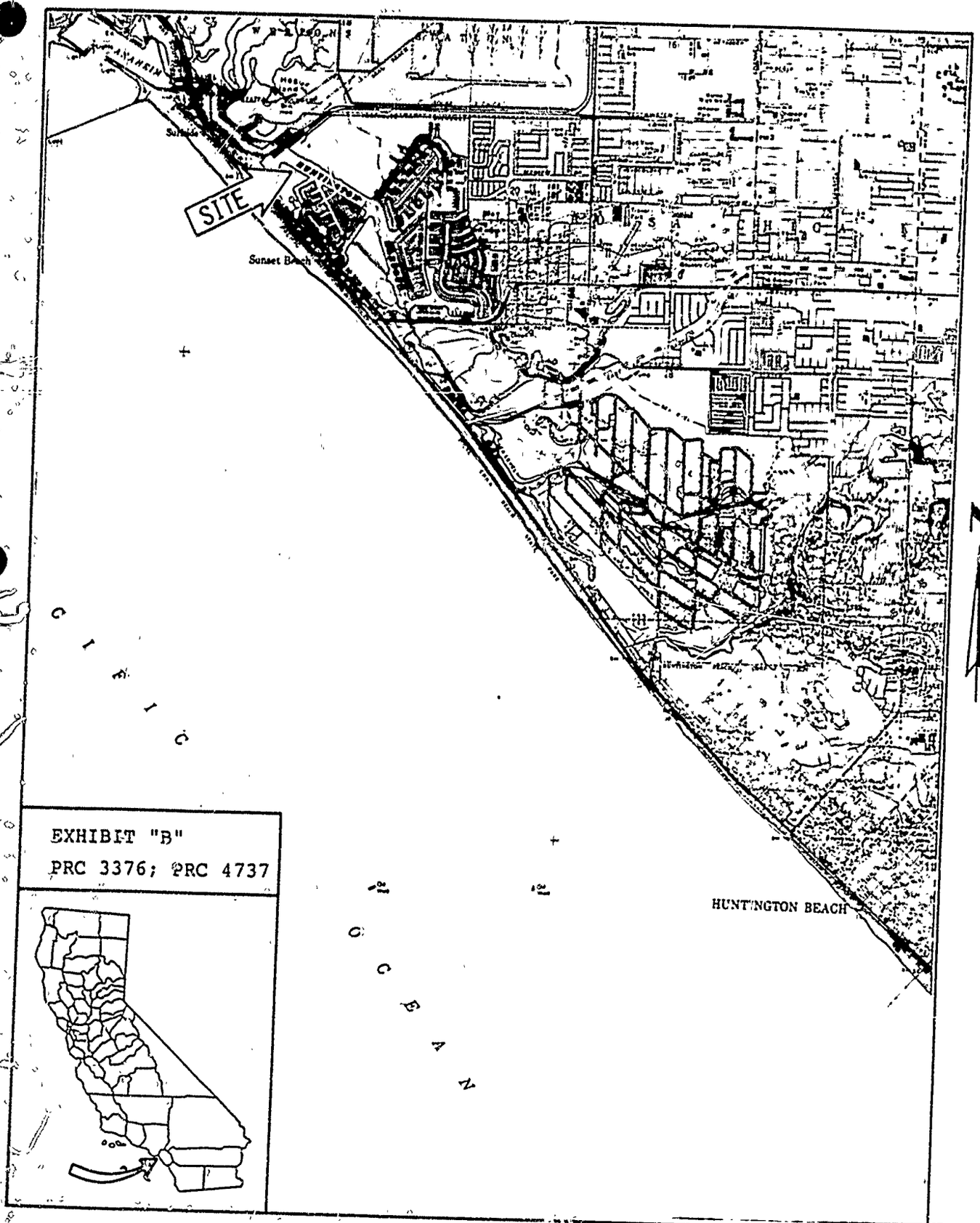


EXHIBIT "B"
PRC 3376; PRC 4737

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