MINUTE ITEM
This Calendar Item No. C6
was approved as Minute Item
No. 6 by the State Lands
Commission by a vote of 2
to 0 at its 9/14/88
meeting

CALENDAR ITEM

A 74 C06 09/14/88
WP 5542 PRC 5542
S 37 Townsend

APPROVAL OF A SUBLEASE TO
GENERAL LEASE - PUBLIC AGENCY USE

SUBLESSOR. City of San Clemente
Attn: Lynn Hughes, Marine Safety Captain
100 Avenida Presidio
San Clemente, California 92672

SUBLESSEE: Laura and Gary Gardhouse
Carden's Coin Telescopes
20065 Kayne Street
Corona, California 91719

AREA, TYPE LAND AND LOCATION:
A 1.397-acre parcel of tide and submerged land located in the Gulf of Santa Catalina, west of the City of San Clemente, Orange County.

LAND USE: Operation and maintenance of a public municipal pier.

TERMS OF ORIGINAL LEASE:
Initial period: 45 years beginning September 1, 1978.

Public liability insurance: Combined single limit coverage of $5,000,000.

Special Consideration:

The City shall provide an annual report of the income and expenses on the lease

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premises. The State has the right to set a monetary rental for any reporting period in which the income exceeds the expenses, not to exceed the amount of such excess income.

BASIS FOR CONSIDERATION:
Pursuant to 2 Cal. Adm. Code 2003.

APPLICANT STATUS:
City of San Clemente is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Filing fee has 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. In 1978, the State Lands Commission approved a month-to-month sublease granted by the City of San Clemente, to J. O. Carden, for a coin-operated telescope located on the City's municipal pier. Carden's Coin Telescopes is now operated by Mr. Carden's daughter and her spouse, Laura Carden and Gary L. Gardhouse. The City, based on a lengthy and successful relationship with Mr. Carden, has entered into a new month-to-month sublease with Mr. and Mrs. Gardhouse, and has further approved the installation of a second telescope on the pier. In compliance with the City's lease for the pier, it has requested Commission approval of the telescope sublease.

The staff has reviewed the terms and conditions of the sublease and found them to be consistent with the Commission's leasing practices. The new sublease is a month-to-month agreement, commencing April 20, 1988. The sublessees have agreed to pay a percentage rent equal to 40 percent of the amount of gross sales during each calendar year, as long as gross sales do not exceed $10,000; should gross sales exceed $10,000 during any calendar year, then sublessees shall pay a percentage rent equal to 50 percent of the amount of its gross sales during such year(s). Reports of gross sales, together with payment of percentage rental, shall be due to the City on the thirtieth day of each calendar month. Regardless of gross sales, sublessees shall pay a minimum rent of $20 per month. The sublessees have agreed to indemnify the City, and to procure and maintain insurance coverage as follows:

a. Policy of comprehensive public liability and property damage insurance not less than $300,000 for injury or death of one or more persons, and not less than $50,000 property damage (City is named as additional insured);

b. Standard fire and extended coverage insurance covering the telescope equipment on the lease premises equal to 100 percent of replacement costs; and

c. Workman's compensation insurance during the course of any construction, repair, and for alteration to the lease premises.

2. At its June 30, 1988 meeting (Minute Item 4), the Commission approved the assignment of the bait and tackle sublease. In that transaction, the City

paid the required filing fee of $25 and the processing expense of $300. If it were not for the City's discussions with Commission staff, regarding an amendment to the lease relative to the sublease provision, it could have processed the subject telescope sublease at the same time, under one processing expense. For this reason, staff recommends that the processing expense for approval of this sublease be waived.

3. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but will not affect those significant lands.

4. 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: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

APPROVALS OBTAINED:
City of San Clemente.

FURTHER APPROVALS REQUIRED:
N/A.

EXHIBITS:
A. Land Description.
B. Location Map.
C. Action of the City Council of the City of San Clemente.

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. WAIVE THE APPLICATION PROCESSING EXPENSE IN THE AMOUNT OF $300.

3. APPROVE A SUBLEASE TO CARDEN'S COIN TELESCOPES, IN THE FORM ON FILE IN THE OFFICES OF THE COMMISSION, COMMENCING APRIL 20, 1988, FOR THE OPERATION OF TWO COIN-OPERATED TELESCOPES ON SAN CLEMENTE MUNICIPAL PIER.

EXHIBIT "A"

LAND DESCRIPTION PRC 5542.9

A parcel of tide and submerged land lying in the Pacific Ocean westerly of the City of San Clemente, Orange County, California, said parcel lying immediately beneath the San Clemente Municipal Pier and described as follows:

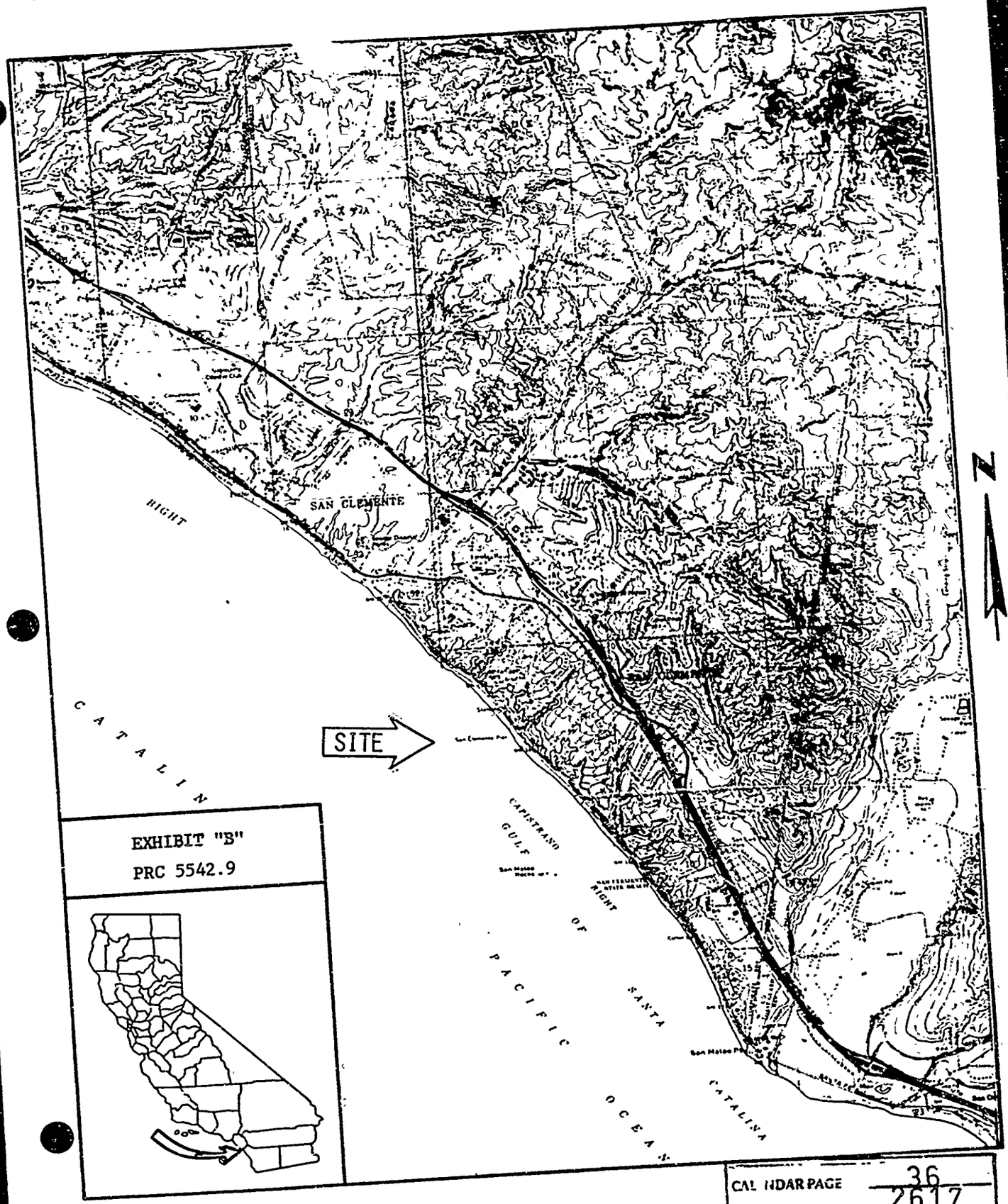
COMMENCING at the most southerly corner of Lot 1, Block 12, Tract 785, as filed for record in Book 23, Pages 36 and 37, Records of Orange County, California, said point also being on the easterly right-of-way line of Avenida Victoria; thence N 33° 28' 55" W 63.92 feet; thence S 56° 31' 05" W 30.00 feet to a point in the centerline of Lot 20, Block A, Tract 779, as filed for record in Book 23, Pages 19 through 25, Records of Orange County, California, and known as Avenida Victoria; thence S 33° 28' 55" E along the centerline of Avenida Victoria 122.97 feet; thence leaving said centerline S 56° 31' 05" W 204.68 feet to the TRUE POINT OF BEGINNING; thence N 33° 28' 55" W 57.00 feet; thence S 56° 31' 05" W 87.00 feet; thence S 33° 28' 55" E 45.00 feet; thence S 56° 31' 05" W 696.00 feet; thence N 33° 28' 55" W 12.00 feet; thence S 56° 31' 05" W 35.00 feet; thence S 33° 28' 55" E 12.00 feet; thence S 56° 31' 05" W 56.00 feet; thence N 33° 28' 55" W 12.00 feet; thence S 56° 31' 05" W 26.00 feet; thence S 33° 28' 55" E 12.00 feet; thence S 56° 31' 05" W 214.00 feet; thence N 33° 28' 55" W 12.00 feet; thence S 56° 31' 05" W 26.00 feet; thence S 33° 28' 55" E 12.00 feet; thence S 56° 31' 05" W 55.50 feet; thence N 33° 28' 55" W 21.00 feet; thence S 56° 31' 05" W 63.00 feet; thence S 33° 28' 55" E 66.00 feet; thence N 56° 31' 05" E 63.00 feet; thence N 33° 28' 55" W 21.00 feet; thence N 56° 31' 05" E 377.50 feet; thence S 33° 28' 55" E 12.00 feet; thence N 56° 31' 05" E 35.00 feet; thence N 33° 28' 55" W 12.00 feet; thence N 56° 31' 05" E 459.00 feet; thence S 33° 28' 55" E 12.00 feet; thence N 56° 31' 05" E 20.00 feet; thence N 33° 28' 55" W 12.00 feet; thence N 56° 31' 05" E 217.00 feet; thence S 33° 28' 55" E 45.00 feet; thence N 56° 31' 05" E 37.00 feet; thence N 33° 28' 55" W 30.92 feet; thence N 56° 31' 05" E 22.17 feet; thence N 33° 28' 55" W 14.08 feet; thence S 56° 31' 05" W 22.17 feet; thence N 33° 28' 55" W 12.00 feet to the point of beginning.

TOGETHER WITH a use area extending 10 feet from the extremities of said pier.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

END OF DESCRIPTION

PREPARED JANUARY 15, 1985, BY BOUNDARY SERVICES UNIT, M. L. SHAFER, SUPERVISOR.



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ATTACHMENT #3

EXHIBIT "C"

ACTION OF THE CITY COUNCIL OF THE
CITY OF SAN CLEMENTE, CALIFORNIA

Addressed to: DIRECTOR OF PUBLIC SERVICES

Copy to: CITY MANAGER
✓LYNN HUGHES, MARINE SAFETY CAPTAIN
CARDEN'S COIN TELESCOPES

Council Meeting Date: APRIL 20, 1988

Present: COUNCIL MEMBERS - LIMBERG, MECHAM, RICE, VEALE, MAYOR LORCH

Absent: COUNCIL MEMBERS - NONE

Agenda Item No.: 4-E

Subject: LEASE AGREEMENT FOR PIER TELESCOPES

Councilmember Limberg noted the telescope lease rent revenue will likely amount to $650 per year; felt that because the lease agreement does not involve a substantial amount of revenue, the matter should have been approved by the City Manager and not submitted to Council.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve, and authorize the Mayor to execute, the "Lease by and between the City of San Clemente, California and Carden's Coin Telescopes." City Contract No. C87-070.

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF SAN CLEMENTE)

I, MYRNA ERWAY, City Clerk and ex-officio Clerk of the City Council of the City of San Clemente, California, do hereby certify the foregoing to be the official action taken by the City Council at the above meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of April, 1988.

(SEAL)

Myrna Erway

City Clerk and ex-officio Clerk
of the City Council

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