

MINUTE ITEM

This Calendar Item No. C09 was approved as Minute Item No. 09 by the California State Lands Commission by a vote of 3 to 0 at its 12-9-04 meeting.

**CALENDAR ITEM
C09**

A	67		12/09/04
		PRC 6616	WP 6616.9
S	35		M. Hays

AMENDMENT OF GENERAL LEASE – PUBLIC AGENCY USE

LESSEE:

City of Huntington Beach
Community Services Department
2000 Main Street
Huntington Beach, CA 92648

LAND TYPE AND LOCATION:

Sovereign lands in the Pacific Ocean, offshore Huntington Beach, Orange County.

LEASE TERM:

35 years, beginning February 1, 1984.

AUTHORIZED USE:

The operation and maintenance of the Huntington Beach municipal pier with restroom facilities, lifeguard tower and related concessions.

CONSIDERATION:

The public use and benefit with the State reserving the right, at any time, to set a monetary rental if income is generated from the lease premises and exceeds expenses thereon, or if the Commission finds such actions to be in the State's best interest.

PROPOSED AMENDMENT:

Amend the authorized improvements to include an existing restaurant structure not previously authorized by the Commission; amend the consideration to include an annual rent of 50 percent of the net income for the annual reporting period at such time as the revenue generated on the Lease Premises exceeds the expenses, as defined in the Lease; and to approve five existing concession subleases, not previously authorized by the Commission. All other terms and conditions of the lease shall remain in effect without amendment.

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BACKGROUND:

On May 7, 1984, the Commission approved a 35-year lease for the Huntington Beach municipal pier that will expire on January 31, 2019. After the heavy winter storm activity of January 1988, the pier sustained extensive damage to its structure and was found to be unsafe. On August 22, 1990, the Commission approved an amendment to PRC 6616.9 for the demolition, reconstruction and extension of the pier and the termination of the then authorized subleases, Neptune's Locker, The Tackle Box, and Captain's Galley.

The authorized reconstruction and extension of the pier structure included new permanent restrooms and a lifeguard tower, both of which have been completed. At the time of the reconstruction, the Lessee was in the early design stage of a proposed restaurant structure to be constructed at the end of the pier. The Lessee completed the two-story restaurant structure sometime after 1990, with the necessary permits; however, they did not request authorization from the Commission to construct the restaurant at the time. The Lessee is now applying for authorization of the existing restaurant structure and five existing subleases operating on the Lease Premises.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises and is the Lessee of Lease No. PRC 6616.9.
2. Staff has been in negotiation with the Lessee regarding rental terms that would generate revenue to the State when the Lessee's revenue exceeds its expenses for operation and maintenance, as defined in the Lease. The Lessee is required and has been providing an annual report of revenue and expenses. Since the pier was reconstructed in the early 1990s, the expenses have exceeded revenue based on each of the annual reports. In 2002, the Lessee performed an economic benefit analysis of the pier to determine the true cost of operating and maintaining the pier as a visitor serving facility with related concessions and programs. It is staff's understanding that the analysis demonstrated that the benefit of the pier to the Huntington Beach economy outweighed the annual cost to the Lessee to operate and maintain the pier. The analysis reported that the pier was a major visitor serving and recreation destination point for the local, state and national visiting public.

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3. Staff has reviewed the five existing concession subleases occupying the Lease Premises. Staff recommends that the Commission approve the subleases of the restaurant concession and four retail concessions located in portable kiosk facilities:

Ruby's Diner, Inc., Doug Cavanaugh, Sublessee

Let's Go Fishing, Cliff Johnson, Sublessee

Carden's Coin Telescopes, Gary and Laura Gardhouse, Sublessees

Surf City Store, Tina Viray, Sublessee

Kite Connection, Dave Shenkman, Sublessee

4. On August 15, 1994, the California Coastal Commission (CCC) granted Permit #5-93-294 for this project under its certified regulatory program (Title 14, California Code of Regulations, section 15251 (c)).

Staff has reviewed the document and determined that the conditions, as specified in Title 14, California Code of Regulations, section 15253 (b), have been met for the Commission to use the environmental analysis document certified by the CCC as a Negative Declaration equivalent in order to comply with the requirements of the CEQA.

5. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 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 "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 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 Title 2, California Code of Regulations, section 2954 is not applicable.

EXHIBIT:

- A. Site and Location Map

CALENDAR ITEM NO. C09 (CONT-D)

RECOMMENDED ACTION:

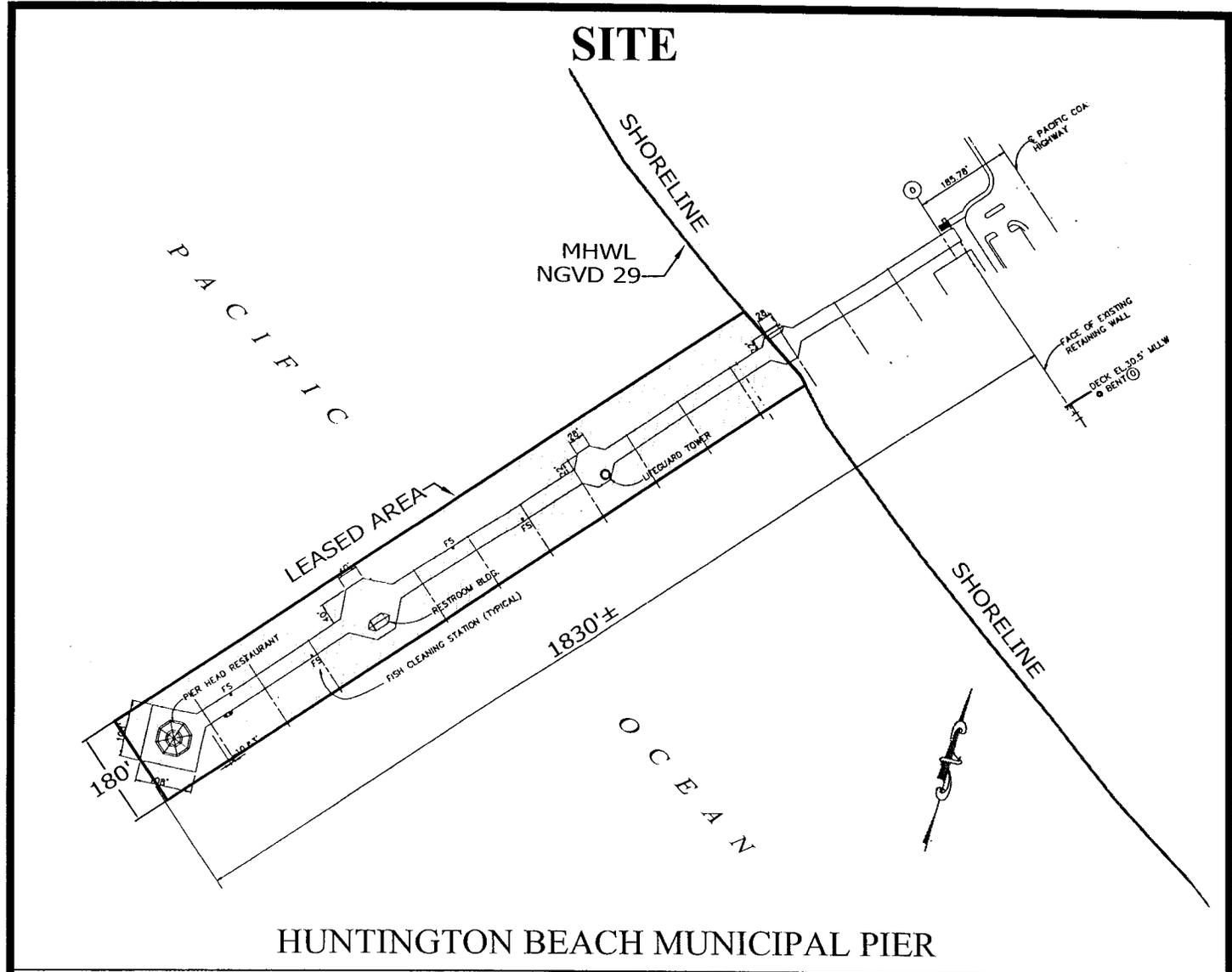
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT, CALIFORNIA COASTAL COMMISSION (CCC) PERMIT #5-93-294, WAS ADOPTED FOR THIS PROJECT BY THE CCC UNDER ITS CERTIFIED PROGRAM (TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15251(c)), AND THAT THE CALIFORNIA STATE LANDS COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION THEREIN AND CONCURS IN THE CCC'S DETERMINATION.

AUTHORIZATION:

AUTHORIZE THE AMENDMENT OF LEASE PRC 6616.9, A GENERAL LEASE-PUBLIC AGENCY USE, OF LANDS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE APRIL 1, 2003, TO AMEND THE AUTHORIZED IMPROVEMENTS TO INCLUDE AN EXISTING RESTAURANT STRUCTURE NOT PREVIOUSLY AUTHORIZED BY THE COMMISSION; TO AMEND THE CONSIDERATION TO INCLUDE AN ANNUAL RENT OF 50 PERCENT OF THE NET INCOME FOR THE REPORTING PERIOD AT SUCH TIME AS THE REVENUE GENERATED EXCEEDS THE EXPENSES, AS DEFINED IN PRC 6616.9;; AND AUTHORIZE FIVE EXISTING SUBLEASES, NOT PREVIOUSLY AUTHORIZED BY THE COMMISSION; ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.



HUNTINGTON BEACH MUNICIPAL PIER

NO SCALE

LOCATION MAP

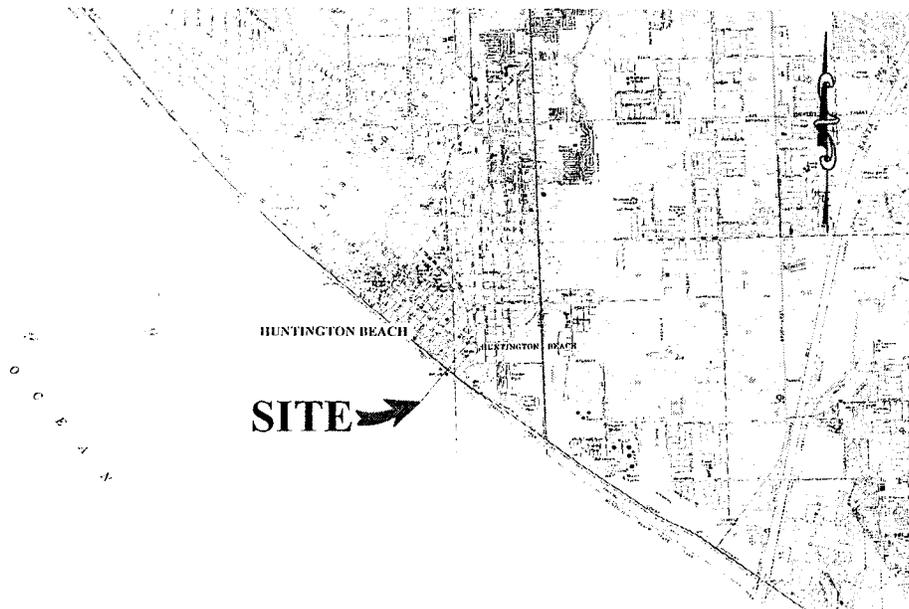


EXHIBIT A
 PRC 6616.9
 General Lease-
 Public Agency Use
 APN 024-150-06
 City of Huntington Beach
ORANGE COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by Lessee or other parties, and is not intended to be, nor shall it be construed as a waiver or limitation of any state interest in the subject or any other property.