This Calendar Item No. C32 was approved as Minute Item No. 32 by the California State Lands Commission by a vote of 2 to 0 at its 10-20-05 meeting.

CALENDAR ITEM
C32

A 73

S 38

PRC 8215

10/20/05
WP 8215.9
J. Smith

CONSIDER TERMINATION OF A GENERAL LEASE - RECREATIONAL AND PROTECTIVE STRUCTURE USE; ACCEPTANCE OF A LEASE QUITCLAIM DEED AND CONSIDER ISSUANCE OF A GENERAL LEASE – PUBLIC AGENCY USE

EXISTING LEASE

LESSEES:

Five Star Resort LLC and Athens Resort Development LLC
30801 South Coast Highway
Laguna Beach, California 92651

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Pacific Ocean, Laguna Beach, Orange County.

AUTHORIZED USE:

Maintenance of an existing rock groin/seawall.

LEASE TERM:

Ten years, beginning September 1, 2000.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single limit coverage of $1,000,000.

PROPOSED LEASE

APPLICANT:

City of Laguna Beach
505 Forest Avenue
Laguna Beach, California 92651

AREA, LAND TYPE AND LOCATION:
Sovereign lands in the Pacific Ocean, Laguna Beach, Orange County.

AUTHORIZED USE:
Maintenance of an existing rock groin/seawall.

LEASE TERM:
20 years, beginning November 1, 2005.

CONSIDERATION:
The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

OTHER PERTINENT INFORMATION:

1. The uplands adjoining the lease premises are now owned by Laguna Beach Luxury Hotel LLC (Laguna), which acquired the property from Laguna Beach Resorts LLC (formerly 5-Star Resort LLC).

2. On September 19, 2000, the Commission authorized the issuance of a General Lease - Protective Structure Use (Lease No. PRC 8215.9) to the current Lessees for removal of an existing concrete slab and pier that extended from the base of the bluff at Treasure Island to a rock outcrop called Goff Island offshore Laguna Beach. The lease also authorized the Lessees to maintain an existing concrete seawall and augment it with rock to prevent erosion of adjacent beaches and stabilize the base of an existing public access way from the bluff top down to the beach. The Lessees proposed this project in conjunction with a bluff top resort development on the site of the former Treasure Island Mobile Home Park.

3. In 2001, the Lessees submitted an application to amend Lease No. PRC 8215.9 to install and maintain one offshore mooring buoy to accommodate fishing or pleasure cruises that the resort would offer to its guests. The Commission authorized the lease amendment, including the imposition of annual rent, at its meeting on September 17, 2001.

   Commission staff was subsequently advised by the Lessees that they were unable to secure all necessary permits and approvals, and the offshore mooring buoy was never installed.

4. In November 2004, the Lessees submitted an application to: (a) amend Lease PRC 8215.9 to remove the offshore mooring as an authorized use; and (2) assign the Lease to Laguna Beach Resorts LLC. During the application review process, Commission staff learned that the Lessees had recorded a Public Access Easement (Document No. 20020343774 recorded on April 24, 2002) in favor of the City of Laguna Beach (City) over certain areas within the resort. The Lessees also transferred fee title to certain portions of the private property to the City of Laguna Beach for park purposes via a grant deed recorded on April 24, 2002, (Document No. 20020343774). This transfer included the bluff face and beach area, including the existing rock groin/seawall that is the subject of Lease No. PRC 8215.9. The City has advised Commission staff that its fee ownership is subject to a development agreement between the City and Laguna, which requires Laguna to be responsible for ongoing maintenance of the park areas (excluding the rock groin/seawall). Representatives of Laguna have advised Commission staff that responsibility for ongoing maintenance of the rock groin/seawall will remain with Laguna pursuant to a separate agreement to be executed between Laguna and the City.

5. Subsequent to the issuance of the original lease, the Commission's boundary staff determined that only the most southwesterly portion (0.006 acre more or less) of the existing rock groin/seawall is located on tide and submerged lands.

6. As the City is now the fee owner of the beach area adjacent to and upon which a portion of the rock groin/seawall is located, staff is recommending that the Commission terminate Lease No. PRC 8215.9 and issue a new General Lease – Public Agency Use to the City for the existing rock groin/seawall located on tide and submerged lands.

7. **Termination of Existing Lease**: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

   Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

8. **Issuance of a New Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

   Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq., but such activity will not affect those significant lands.

EXHIBITS:

A. Location and Site Map
B. Land Description

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

ISSUANCE OF A NEW LEASE: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT

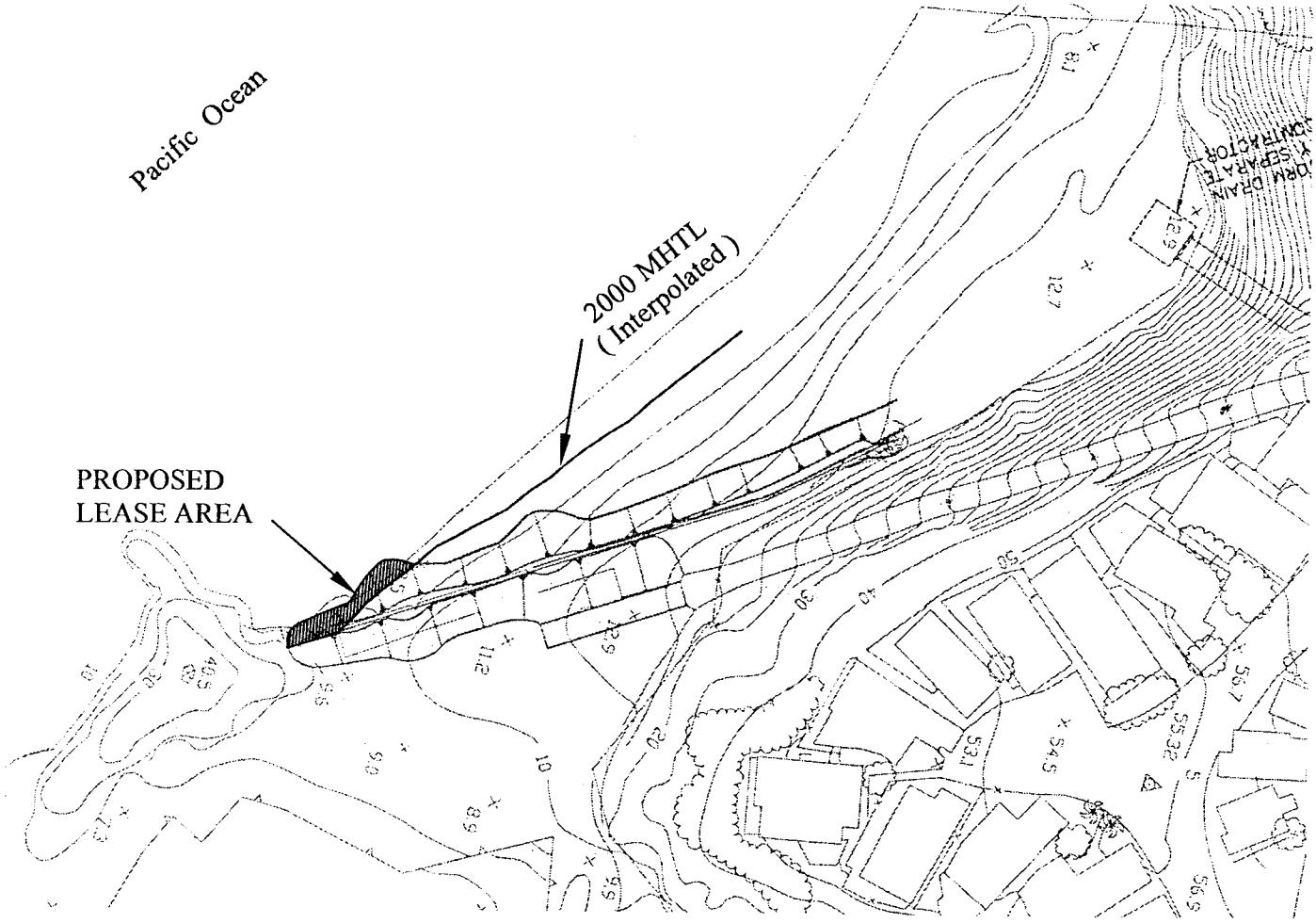
TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON THOSE RESOURCES FOR WHICH SUCH LANDS ARE IDENTIFIED.

AUTHORIZATION:

AUTHORIZE TERMINATION OF LEASE PRC 8215.9, A GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE; AND ACCEPTANCE OF A LEASE QUITCLAIM DEED FROM LAGUNA BEACH LUXURY HOTEL LLC, (FORMERLY FIVE STAR RESORT LLC) AND ATHENS RESORT DEVELOPMENT LLC; AND AUTHORIZE ISSUANCE TO THE CITY OF LAGUNA BEACH OF A GENERAL LEASE - PUBLIC AGENCY USE, BEGINNING NOVEMBER 1, 2005, FOR A TERM OF 20 YEARS, FOR MAINTENANCE OF AN EXISTING ROCK GROIN/SEAWALL ON THE LAND DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION BEING THE PUBLIC USE AND BENEFIT WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST. TERMINATION OF LEASE NO. PRC 8215.9 AND ACCEPTANCE OF THE QUITCLAIM DEED WILL BE EFFECTIVE UPON EXECUTION OF THE GENERAL LEASE – PUBLIC AGENCY USE BY THE CITY OF LAGUNA BEACH AND THE COMMISSION.

NO SCALE

SITE



30801 SOUTH COAST HIGHWAY, ADJACENT TO
TREASURE ISLAND RESORT, NEAR GOFF ISLAND

NO SCALE

LOCATION

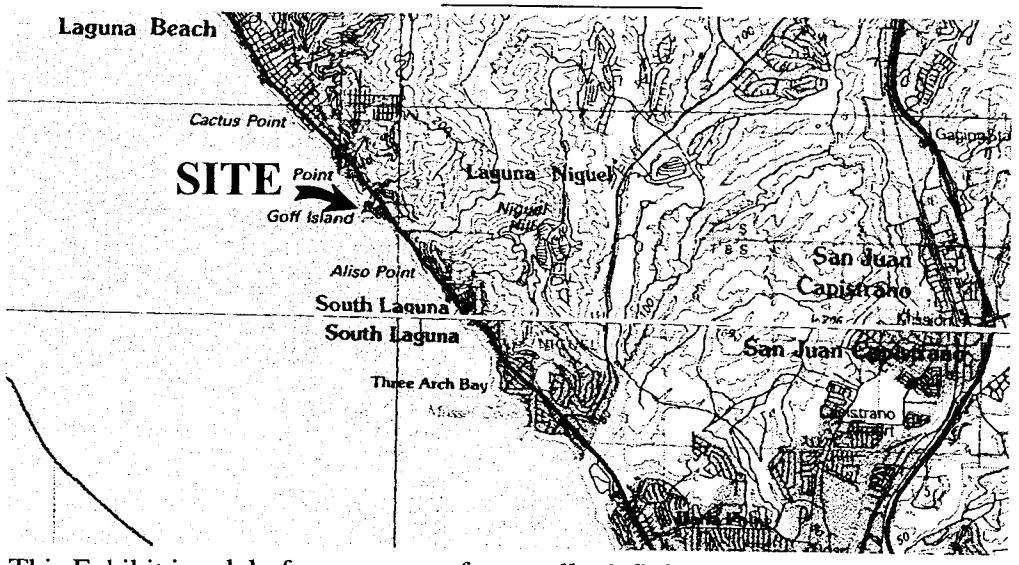


Exhibit A

PRC 8215
CITY OF
LAGUNA BEACH
PROTECTIVE STRUCTURE
GENERAL LEASE
ORANGE COUNTY

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the 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.

MAP SOURCE: USGS QUAD

RAB 09/05

CALENDAR PAGE

EXHIBIT B **PRC 8215**

LAND DESCRIPTION

A parcel of tide and submerged land in the Pacific Ocean adjacent to Treasure Island Park, situated in Orange County, State of California, said parcel being more particularly described as follows:

BEGINNING AT A POINT on the mean high tide line as interpolated from Moffat and Nichol Engineers "Groin Construction Laguna Beach Resort" map, dated December 13th, 2000, said point bears North 13° 33' 52" East 95 feet from National Geodetic Survey monument GOFF ISLAND 2, said monument having CCS83, Zone 6 (1991.35) coordinates: North 2,134,065.80 feet and East 6,101,265.87 feet; thence southerly along said mean high tide line 41 feet, more or less, to a point on the concrete groin as shown on said map; thence along said groin South 23° 23' 18" West 20 Feet; thence North 57° 49' 29" West 7 feet; thence North 3° 51' 19" East 50 feet; thence North 60° 38' 31" East 11 feet, more or less to the point of beginning.

EXCEPTING THEREFROM any portion water ward of said groin construction as shown on Moffat and Nichol Engineers "Groin Construction Laguna Beach Resort" map, dated December 13th, 2000.

END OF DESCRIPTION

Prepared 9-27-2005 by the Boundary Unit of the California State Lands Commission.

LICENSED LAND SURVEYOR
STEVE C. LEHMAN
Exp. 12/31/05
No. 7377
STATE OF CALIFORNIA