CALENDAR ITEM

C35

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		W 26298
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GENERAL LEASE - COMMERCIAL USE AND APPROVAL OF A SUBLEASE

APPLICANT:

San Diego Unified Port District
3165 Pacific Highway
San Diego, CA 92112

PROPOSED SUBLESSEE:

Sunroad Asset Management, Inc.
4445 Eastgate Mall Suite 400
San Diego, CA 92121

AREA, LAND TYPE, AND LOCATION:

0.30 acre, more or less, of sovereign land in San Diego Bay, adjacent to Harbor Island, San Diego County.

AUTHORIZED USE:

Renovation, use, and maintenance of a barge to be used as a floating restaurant and event facility.

LEASE TERM:

40 years, beginning June 28, 2010.

CONSIDERATION:

Year One: $3,000 per year; **Years Two and Three:** A minimum of $6,000 per year against a percentage of Lessee's gross income from gross sales revenues generated by the sublease on the Leased Premises in excess of the minimum annual rental; **Year Four and forward**: a minimum of $12,009 per year against a percentage of Lessee's gross income from revenues generated by the sublease on the Leased Premises in excess of the minimum annual rental, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Lessee: Combined single limit liability insurance coverage in the amount of not less than $1,000,000. Applicant may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the Lease.

Sublessee: Combined single limit Commercial General Liability insurance coverage in the amount of no less than $2,000,000 with a general aggregate coverage of $4,000,000; Liquor Liability insurance coverage in the amount of no less than $2,000,000.

OTHER PERTINENT INFORMATION:

1. The San Diego Unified Port District (Applicant) owns and manages the sovereign lands adjoining the lease premises, as Trustee, pursuant to Chapter 67, Statutes of 1962, 1st Extraordinary Session, as amended.

2. The Applicant and Sunroad Asset Management, Inc. (proposed Sublessee) are proposing to develop a restaurant project occupying the site and facilities of the Reuben E. Lee, a barge outfitted as a floating restaurant adjacent to Harbor Island in San Diego Bay that ceased operations in 2003. The barge occupies an area at the east end of Harbor Island that includes both legislatively granted sovereign lands and sovereign ungranted lands within San Diego Bay, with approximately 60 percent of the structure occupying the ungranted sovereign lands. The barge will be towed to the Marine Group Boat Works in Chula Vista, an approved off-site facility, for renovations which will include the demolition of the existing multi-story superstructure and the construction of a new open-air dining venue with single-story galley/restroom facility. The barge will then be towed back to the site upon completion of the renovation work.

3. A lease term of 40 years is being proposed to allow the sublessee sufficient time to amortize the renovation and conversion cost of the barge so that the project is economically viable.

4. The Proposed Sublessee has an Option Agreement with the Applicant to develop the project. Upon completion of renovations to the barge, the proposed Sublessee plans to assign the Sublease to Sunroad Harbor Island, Inc. for purposes of managing the property. The Applicant and proposed Sublessee will submit an application to the Commission for consideration of an Assignment at a future date.

5. **Lease:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; Title 14, California Code of Regulations, section 15302.

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

6. **Sublease:** Pursuant to the Commission's delegation of authority and 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 CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

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

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

San Diego Unified Port District, California Coastal Commission, California Regional Water Quality Control Board, and the U.S. Army Corps of Engineers.

EXHIBITS:

A. Site and Location Map
B. Legal Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 2, Replacement or Reconstruction; Title 14, California Code of Regulations, section 15302.

Sublease: Find that the activity is not subject to the requirements of 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 and Title 14, California Code of Regulations, section 15378.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code Sections 6370, et seq.

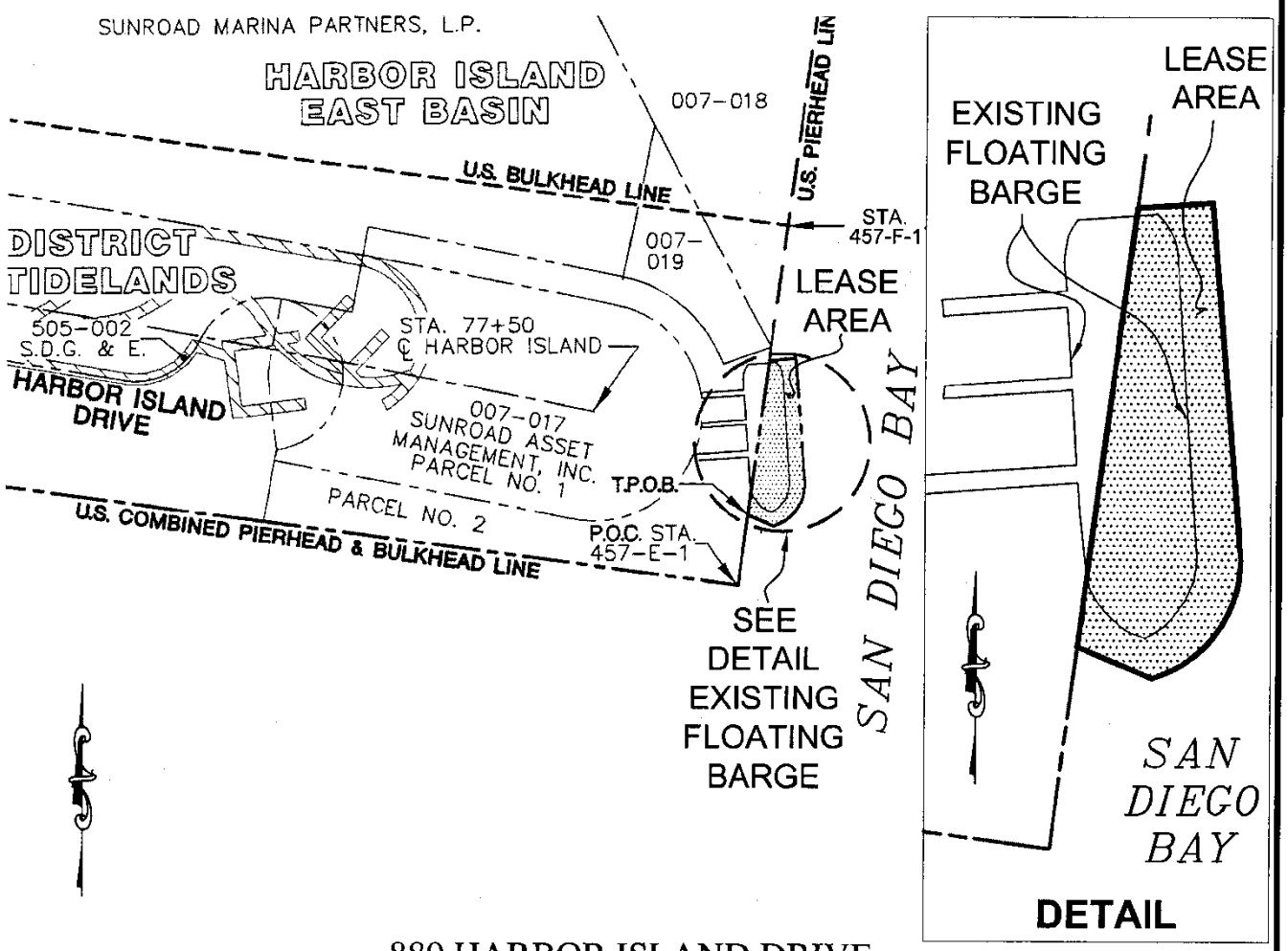
AUTHORIZATION:

1. Authorize issuance of a General Lease - Commercial Use to the San Diego Unified Port District beginning June 28, 2010, for a term of 40 years, for the renovation, use, and maintenance of a barge to be used as a floating restaurant facility as shown on Exhibit A (for reference purposes only) and as described on Exhibit B attached and by this reference made a part hereof; Consideration in the amount of $3,000 per year for the first year, a minimum of $6,000 per year against a percentage of Lessee's gross income from gross sales revenues generated by the subleases on the Leased Premises for years two and three, and a minimum of $12,009 per year against a percentage of Lessee's gross income from revenues generated by the subleases on the Leased Premises thereafter, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease; Insurance for the Lessee: combined single-limit liability insurance coverage in the amount of no less than $1,000,000; Insurance for the Sublessee: combined single-limit commercial general liability insurance coverage in the amount of no less than $2,000,000 with a general aggregate coverage of $4,000,000, and liquor liability insurance coverage in the amount of no less than $2,000,000.

2. Authorize approval of a Sublease from the San Diego Unified Port District to Sunroad Asset Management, Inc.

NO SCALE

SITE



880 HARBOR ISLAND DRIVE

NO SCALE

LOCATION

MAP SOURCE: USGS QUAD

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.

Exhibit A

W26298

SAN DIEGO UNIFIED PORT DISTRICT - 880 HARBOR RESTAURANT COMMERCIAL LEASE SAN DIEGO COUNTY

JWP 01/10

EXHIBIT B

W26298

LAND DESCRIPTION

A parcel of submerged land in the bed of San Diego Bay, lying waterward of the U.S. Combined Pierhead and Bulkhead Line within the City of San Diego, State of California, and more particularly described as follows:

Commencing at U.S. Combined Pierhead and Bulkhead Line Station 457-E-1, as said U.S. Combined Pierhead and Bulkhead Line is shown and delineated on map entitled "Harbor Lines, San Diego Bay, California, File No. (D.O. Series) 426", Approved by the Secretary of the Army, April 1969, and filed with the Office of the District Engineer, Los Angeles California; thence leaving said Station 457-E-1 and along said U.S. Combined Pierhead and Bulkhead Line North 07°57'30" East a distance of 97.57 feet to the TRUE POINT OF BEGINNING; thence continuing along said U.S. Combined Pierhead and Bulkhead Line North 07°57'30" East a distance of 213.39 feet; thence leaving said U.S. Combined Pierhead and Bulkhead Line North 85°46'00" East a distance of 37.00 feet; thence South 4°14'00" East a distance of 168.00 feet to the beginning of a 60.00 foot radius curve, concave to the northwest; thence southwesterly along the arc of said curve through a central angle of 78°00'00" an arc distance of 81.68 feet to a point of non-tangency; thence North 66°33'31" West a distance of 39.00 feet to the TRUE POINT OF BEGINNING, containing 12,886 square feet or 0.30 acre of water covered area.

All bearings and distances in the above land description are grid, and based upon the California Coordinate System, Zone 6, N.A.D. 83, Epoch 1991.35.

1-26-2010

Gary L. Hus — Date
L.S. 7019

LICENSED LAND SURVEYOR
GARY L. HUS
No. 7019
EXP. DATE 6/30/2010
CALIFORNIA

END OF DESCRIPTION