

**CALENDAR ITEM  
C88**

A 67  
S 35

03/29/12  
PRC 8241.1  
S. Paschall

**REVISION OF RENT**

**LESSEES:**

Del B. Brault and Jane L. Brault, as Trustees for the Brault Family Trust dated May 31, 1996.

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in Huntington Harbour, adjacent to 16681 Carousel Lane, city of Huntington Beach, Orange County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing boat dock, access ramp, bulkhead protections, and cantilevered deck extending no more than five feet waterward of the bulkhead.

**LEASE TERM:**

10 years, beginning May 10, 2007.

**CONSIDERATION:**

This lease provides that the State may modify the rent periodically during the lease term. Pursuant to this provision, staff has conducted a review of the rent under this lease, and recommends that the rent be revised from \$585 per year to \$567 per year, effective May 10, 2012.

**OTHER PERTINENT INFORMATION**

1. On May 10, 2007, the Commission approved issuance of a General Lease – Recreational and Protective Structure Use for a 10-year term, beginning May 10, 2007, to Del B. Brault and Jane L. Brault, as Trustees for the Brault Family Trust Dated May 31, 1996, for the continued use and maintenance of an existing boat dock, access ramp, cantilevered deck, and bulkhead protections. The current lessees are natural persons who own the upland property adjacent to the lease premises.
2. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public

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Resources Code, which has allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission “shall charge rent for a private recreational pier constructed on state lands.” The law provides for two exceptions to the imposition of rent. Those exceptions are for:

1. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
2. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

This lease meets the statutory requirements for an exception to the recently-enacted changes to section 6503.5 of the Public Resources Code for the remaining term of the lease because the lease was in effect on July 1, 2011. Therefore, the only facility subject to rent is the cantilevered deck.

3. Upon review of the file for this rent review, staff discovered that the cantilevered deck was constructed slightly smaller than originally reported. Staff recommends the Commission credit the Lessees for previous rent paid on the difference in the area of the cantilevered deck. The rent revision reflects the corrected lease area and updated rental amount for the remaining term of the lease.
4. The staff recommends that the Commission find that the subject revision of rent does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

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**CEQA FINDING:**

Find that the subject revision of rent is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**AUTHORIZATION:**

Approve the revision of rent for Lease No. PRC 8241.1 from \$585 per year to \$567 per year, effective May 10, 2012. Credit the Lessee for payment of rent on a portion of the cantilevered deck that was not within the Commission's jurisdiction in the amount of \$565 for the period of May10, 2007 through May 9, 2012.

**EXHIBIT A**

**PRC 8241.1**

**LAND DESCRIPTION**

A parcel of submerged land in Huntington Harbour in the City of Huntington Beach, Orange County, California, described as follows:

Beginning at the most southerly corner of Lot 144 as said lot is shown and so designated on that certain map of Tract No. 5481 filed in Book 215, Pages 11 through 22 of Miscellaneous Maps, Official Records of said County; thence along the westerly extension of the southerly line of said lot, 60.00 feet, more or less, to the pierhead line, as said pierhead line is shown on EXHIBIT 'A' of Resolution No. 5631, passed and adopted January 21, 1986 by the City Council of the City of Huntington Beach and recorded January 27, 1986 as Document 86-035081, Official Records of said County; thence northerly along said pierhead line to the westerly extension of the northerly line of said lot; thence along said extension 60.00 feet, more or less, to the most westerly corner of said lot; thence along the westerly line of said lot to the point of beginning.

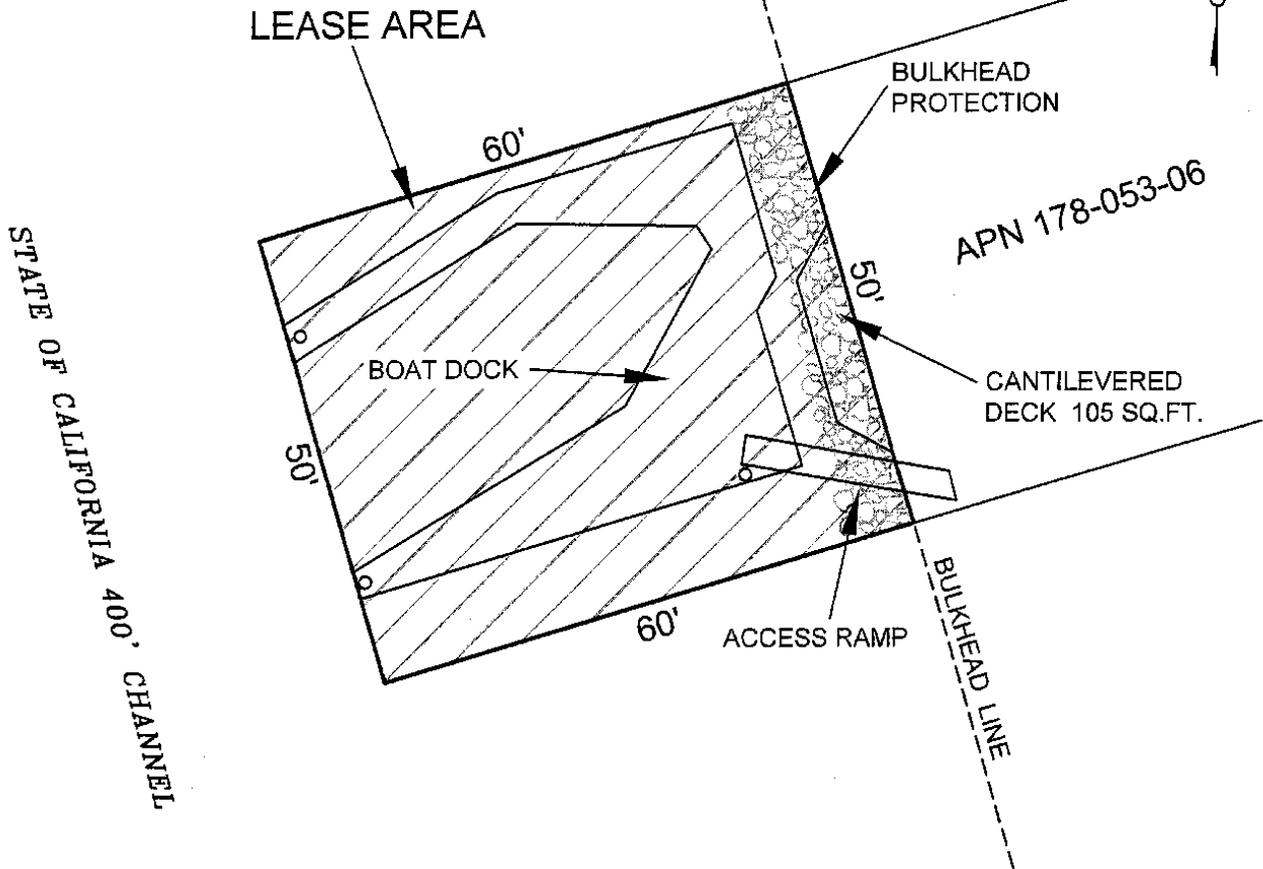
**END OF DESCRIPTION**

Prepared 02/07/2005 by the California State Lands Commission Boundary Unit



NO SCALE

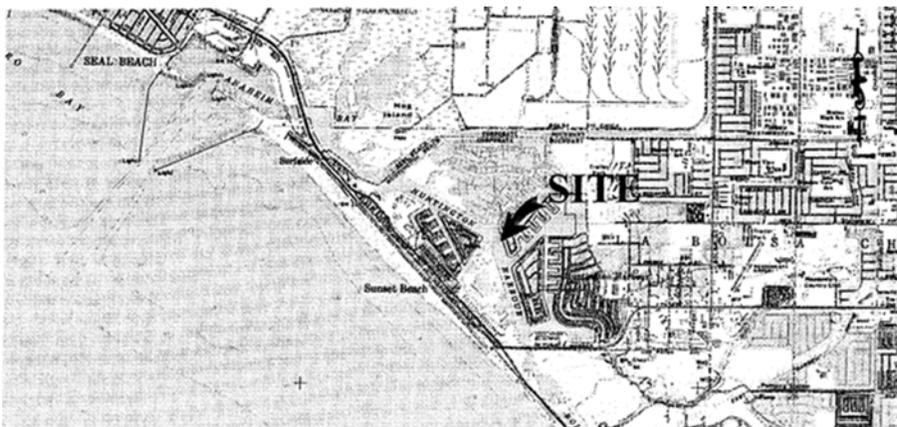
### SITE



16681 CAROUSEL LANE, HUNTINGTON HARBOUR

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### **Exhibit B**

PRC 8241.1  
 BRAULT TRUST  
 APN 178-053-06  
 GENERAL LEASE-  
 RECREATIONAL AND  
 PROTECTIVE STRUCTURE  
 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.

TS 03/12/12