CALENDAR ITEM

C92

A 67 03/29/12

WP 5258.1

S 35 D. Simpkin

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Trinidad Island Homeowners Association

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, city of Huntington Beach, Orange County.

AUTHORIZED USE:

The continued use and maintenance of 60 existing boat slips, nine access ramps, and periodic maintenance dredging.

LEASE TERM:

10 years, beginning June 1, 2012.

CONSIDERATION:

Existing boat slips and ramps: Annual rent in the amount of $20,422, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

Periodic maintenance dredging: No monetary consideration is due because the dredged material has no commercial resale value. The dredged material may not be sold.

SPECIFIC LEASE PROVISIONS:

Combined single limit liability insurance coverage in the amount of no less than $3,000,000.

OTHER PERTINENT INFORMATION:

1. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1961 as a result of a land exchange entered into between the Commission and the Huntington Harbour Corporation, recorded as Sovereign Lands Location No. 34 dated December 22, 1960 and recorded on January 31, 1961 in Book 5611, Page 470, Official Records, Orange County, California. Projects, including new development or maintenance of existing facilities, extending into these Channels beyond the bulkhead line require obtaining a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicants' upland property is located along the Main Channel of Huntington Harbour.

2. On June 30, 1992, the Commission authorized the issuance of Lease No. PRC 5258.9, a General Lease – Recreational Use, to the Trinidad Island Homeowners Association for a 20-year term, effective June 1, 1992. The lease expires on May 31, 2012. The Applicant is now applying for a new General Lease – Recreational Use for the existing 60 boat slips, nine access ramps, and periodic maintenance dredging previously authorized by the Commission.

3. 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 Resources Code, which had 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:

   a. 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

   b. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

   The Applicant does not qualify for either exception and is subject to rent.

4. The Lessee has requested that the new lease authorize periodic maintenance dredging within the lease premises, should it be necessary at any time during the term of the lease. The volume of the dredged material will not exceed a maximum of 2,500 cubic yards per year.

5. **Maintenance Dredging:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 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 4, Minor Alterations to Land; California Code of Regulations, Title 14, section 15304.

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

6. **Issuance of Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 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 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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

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

EXHIBITS:

A. Land Description
B. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Maintenance Dredging: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, Title 14, section 15304.

Issuance of Lease: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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 section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease - Recreational Use to the Trinidad Island Homeowners Association, beginning June 1, 2012, for a term of 10 years, for the continued use and maintenance of 60 existing boat slips, nine access ramps, and periodic maintenance dredging as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the boat dock and access ramps: annual rent in the amount of $20,422, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; consideration for periodic maintenance dredging: no monetary consideration; and liability insurance coverage of no less than $3,000,000.

EXHIBIT "A"

PRC 5258.1

LAND DESCRIPTION

A parcel of submerged land in the State owned channel of Huntington Harbor, being a portion of fractional Section 19, T5S, R11W, SBM, Orange County, California, per map filed in Book 51, page, 13 of Miscellaneous Maps, Orange County Records, said parcel being more particularly described as follows:

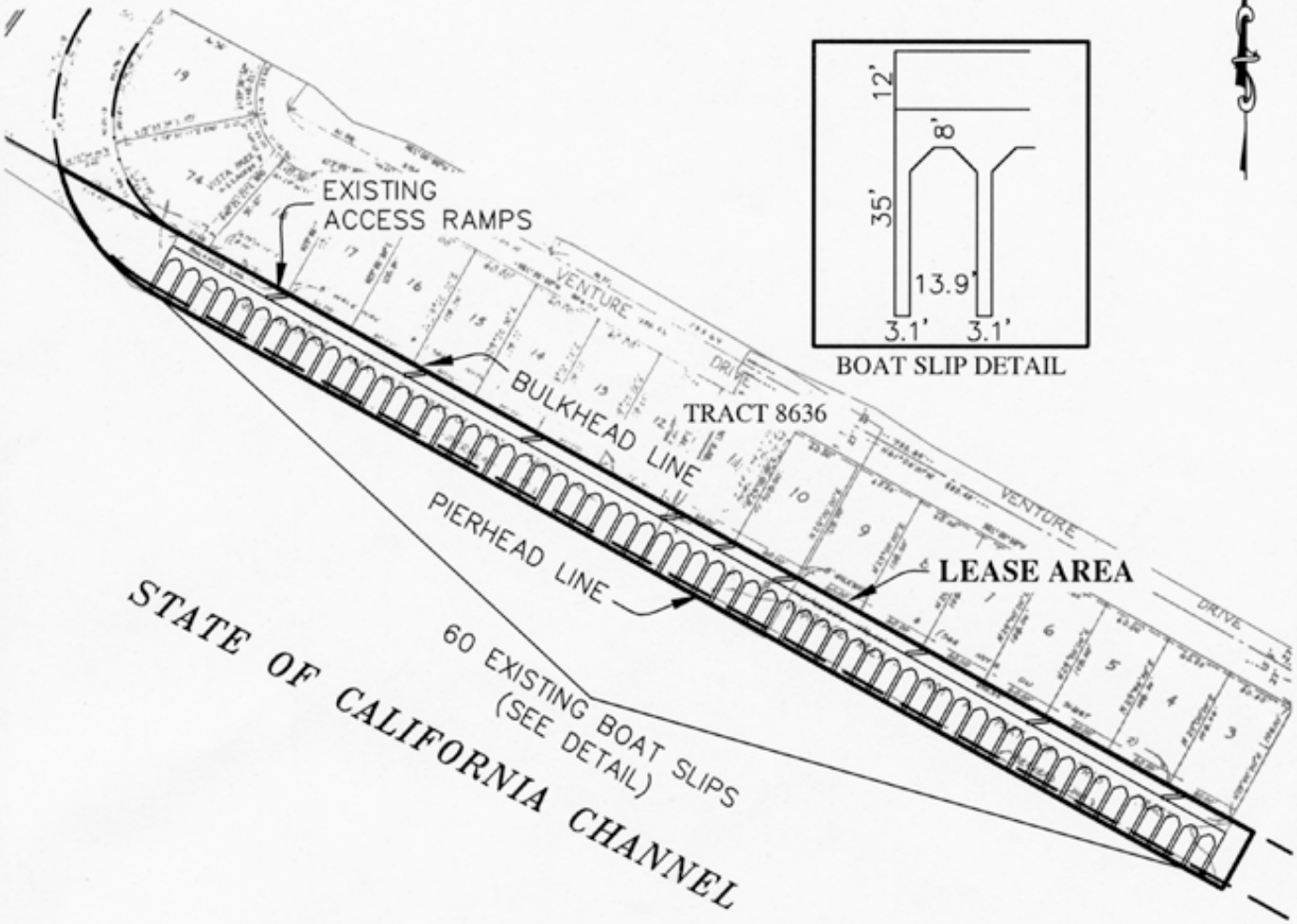
> COMMENCING at the most westerly corner of Lot 70 of Tract No. 9168, shown on the map filed in Book 371, pages 16 through 20 of Miscellaneous Maps, Orange County Records; thence N 61° 00' 00" W, 720.00 feet, along the northerly boundary of the 400 foot channel described as "Strip A" in the deed recorded in Book 6368, pages 411 through 413, to the TRUE POINT OF BEGINNING; thence continuing along said northerly boundary, N 61° 00' 00" W, 1159.56 feet to a point on a non-tangent curve concave to the northeast with a radius of 165 feet and a central angle of 48° 11' 23" and from which the radius point of said curve bears N 77° 11' 23" E; thence southeasterly along said curve 138.78 feet; thence tangent to said curve, S 61° 00' 00" E, 1036.58 feet; thence N 29° 00' 00" E, 55.00 feet to the point of beginning

END OF DESCRIPTION

PREPARED MARCH, 1992 BY LLB

NO SCALE

SITE



TRINIDAD ISLAND H.O.A., HUNTINGTON HARBOUR

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 B

PRC 5258.1
TRINIDAD ISLAND H.O.A
GENERAL LEASE -
RECREATIONAL USE
HUNTINGTON HARBOUR
ORANGE COUNTY

DJF 11/10/11