

MINUTE ITEM  
This Calendar Item No. C18  
was approved as Minute Item  
No. 9 by the State Lands  
Commission by a vote of 3  
to 0 at its 0127190  
meeting.

CALENDAR ITEM

A 11  
S 7

C 18

09/27/90  
PRC 7063  
Bancroft

AMENDMENT OF GENERAL LEASE - PUBLIC AGENCY USE

LESSEE: City of Pittsburg  
P. O. Box 1518  
Pittsburg, California 94565

AREA, TYPE LAND AND LOCATION: An 8.281-acre parcel of tide and submerged land, located in Sacramento River at Pittsburg, Contra Costa County.

LAND USE: Marina facility.

TERMS OF ORIGINAL LEASE:

Initial period: 20 years beginning April 1, 1987.

Consideration: The public use and benefit; with the State reserving the right at any time to set a monetary rental if the Commission finds such action to be in the State's best interest and/or if revenue exceeds costs.

TERMS OF PROPOSED AMENDMENT:

- A. The description on Exhibit "A" is substituted for the description in lease PRC 7063.

CALENDAR ITEM NO. C 7 8 (CONT'D)

- B. Paragraph 2, Section 2 of lease PRC 7063, as shown in Exhibit "C", is deleted.
- C. Effective date is January 1, 1990.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3;  
Title 14, Div. 6.

AB 884: 11/27/90.

OTHER PERTINENT INFORMATION:

1. A Negative Declaration was prepared and adopted for this project by the City of Pittsburg. The State Lands Commission's staff has reviewed such document.
2. The original lease provides for the construction of marina facilities within the leased premises and also upon adjoining premises leased to PG&E under PRC 4444. The original lease provided for a sublease from PG&E for the affected area of the lease.

Actual construction of the marina facilities extended beyond the original lease boundaries.

This amendment provides for incorporation of the entire marina facility under lease PRC 7093 and eliminates the sublease requirement with PG&E. PG&E has agreed to the elimination of the affected area and an amendment to their lease (PRC 4444) is being processed.

APPROVALS OBTAINED:

None.

FURTHER APPROVALS REQUIRED:

None.

CALENDAR ITEM NO. C 8 (CONT'D)

- EXHIBITS:
- A. Land Description.
  - B. Location Map.
  - C. Copy of Original Lease PRC 7063.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT A NEGATIVE DECLARATION WAS PREPARED AND ADOPTED FOR THIS PROJECT BY THE CITY OF PITTSBURG AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. DETERMINE THAT THE PROJECT, AS APPROVED, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
3. AUTHORIZE AN AMENDMENT TO LEASE PRC 7063, EFFECTIVE JANUARY 1, 1990, PROVIDING FOR THE DELETION OF THE LAND DESCRIPTION DATED MARCH 9, 1987, IN SAID LEASE PRC 7063 AND REPLACING IT WITH THE LAND DESCRIPTION DATED DECEMBER 12, 1989, IDENTIFIED AS EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF AND THE DELETION OF PARAGRAPH 2, SECTION 2, OF SAID LEASE PRC 7063.
4. DETERMINE THAT, EXCEPT FOR THE CHANGES AUTHORIZED HEREIN, ALL OTHER TERMS AND CONDITIONS OF SAID LEASE PRC 7063 SHALL REMAIN IN FULL FORCE AND EFFECT.

**EXHIBIT "A"**

PRC 7063.9

**LAND DESCRIPTION**

A parcel of tide and submerged land in the Sacramento River, vicinity of Pittsburg, Contra Costa County, California, described as follows:

Commencing at a point on the westerly line of Montezuma Street and its intersection with the northerly line of Cody Street, as said lines are shown on that certain map entitled "West Side addition No. 3 of the City of Pittsburg" which map was filed on Sept. 5, 1928, in the office of the recorder, Book 21 of maps at Page 574, County of Contra Costa, State of California; thence along the northerly extension of said westerly line of Montezuma Street, N 16°40' 00" E 922.72 feet, to the Easterly terminus of the line described in the agreement between the State of California and Pacific Gas and Electric Company, arbitrating and stipulating ordinary high water mark along the Sacramento River, dated October 24, 1961, which line is delineated and described "North property line of PG&E" on the plot of the North property line of PG&E along the Sacramento River filed in the office of the recorder, in Book 19, Page 33 of Licensed Land Surveys, County of Contra Costa, State of California, said point being on the western boundary of the City of Pittsburg and also being the POINT OF BEGINNING; thence continuing along said northerly extension of the westerly line of Montezuma Street and said western boundary N 16°40'00" East 307.28 feet, to the northwest corner of the Montezuma Street Extension Annexation (Resolution 924 dated March 1, 1943); thence leaving said westerly line of Montezuma Street and along the north line of said annexation line N88°55'00" E 52.50 feet; thence leaving said annexation line N16°40'00"E 100.00 feet; thence leaving said western boundary line of the City of Pittsburg N 57°00'00" W 506.42 feet; thence S 70°53'35" W 300.00 feet; thence S16°45'00"W 450.00 feet, to said Western boundary line of the City of Pittsburg and said northerly property line of PG&E; thence along said western city boundary line and said northerly line of said PG&E S 89°45'31" E 115.00 feet; thence S 73°15'00" E 663.78 feet to the point of beginning.

**END OF DESCRIPTION****REVIEWED DECEMBER 12, 1989 BY BIU 1.**OF THIS PAGE  
OF THE PAGE243  
2520

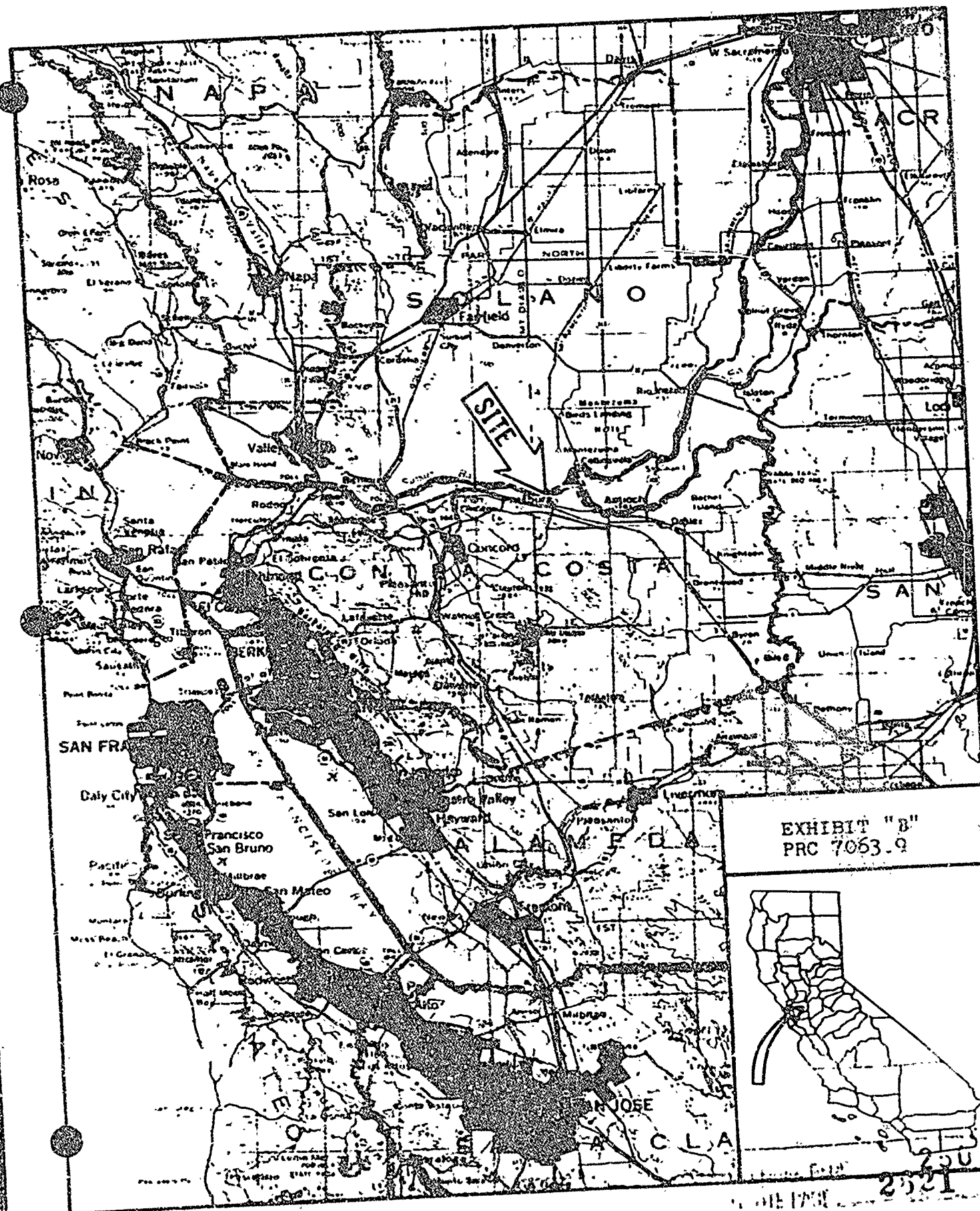


EXHIBIT "B"  
PRC 7063.9



DATE 1951 230  
2021

**DUPLICATE  
ORIGINAL**

**RECORDED AT THE REQUEST OF**  
State of California/State Lands Commission  
Official Business - Document entitled to free  
recording pursuant to Government Code  
Section 27320.

**WHEN RECORDED MAIL TO**  
State Lands Commission  
1807 - 13th Street  
Sacramento, CA 95834  
Attention: Title Unit

W 23649

**LEASE NO. PRC 7063.9**

This lease consists of this summary and the following attached and incorporated parts:

- Section 1 Basic Provisions
- Section 2 Special Provisions amending or supplementing  
Section 1 or 4
- Section 3 Description of Lease Premises
- Section 4 General Provisions

**SECTION 1**

**BASIC PROVISIONS**

The STATE OF CALIFORNIA, hereinafter referred to as Lessor acting by and through the STATE LANDS COMMISSION, (1807 - 13th Street, Sacramento, California 95814), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Administrative Code, and for consideration specified in the Lease,

does hereby lease, demise and let to: **CITY OF PITTSBURG**  
hereinafter referred to as Lessee:  
**WHOSE MAILING ADDRESS IS: 2020 Railroad Avenue**

**Pittsburg, California 94565**

those certain lands described in Section 3 subject to the reservations, terms, covenants and conditions of this Lease.

**LEASE TYPE: General Lease - Public Agency Use**

**LAND TYPE: Tide and Submerged**      **LOCATION: Conjunction of Sacramento River  
and New York Slough at  
Pittsburg, Contra Costa County**

**LAND USE OR PURPOSE: Construction and maintenance of 75 open berths and  
a breakwater overlaid with a fishing pier; placement of riprap for  
embankment stabilization; dredge a maximum volume of 35,000 cubic yards of  
material to be disposed on City-owned public land**

**TERM: Twenty (20) years; beginning April 1, 1987 and ending March 31,  
2007, unless sooner terminated as provided under this Lease.**

**EXHIBIT C**

RECORDING FEE 251  
DATE PAID 2322  
FILE MADE 87-7163

**CONSIDERATION:** Public use and benefit condition, on terms as stated in Section 2, paragraph 1; subject to modification by Lessor as specified in Paragraph 2(b) of Section 4.

**AUTHORIZED IMPROVEMENTS:** Construction and maintenance of 75 open berths, an earthen fill breakwater overlaid with a fishing pier; placement of 30,000 cubic yards riprap

[X] EXISTING: None

[X] TO BE CONSTRUCTED; CONSTRUCTION MUST BEGIN NO SOONER THAN: April 1, 1987  
AND BE COMPLETED BY: April 1, 1988

LIABILITY INSURANCE: N/A

SURETY BOND OR OTHER SECURITY: N/A

**SECTION 2  
SPECIAL PROVISIONS**  
BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED, REVISED  
OR SUPPLEMENTED AS FOLLOWS:

**Riprap Placement**

"Lessee shall, at least 30 days prior to placement of the riprap authorized herein, furnish a specific plan for the proposed riprap to the staff and shall obtain written authorization from the Executive Officer. Riprap placed under this authorization shall be placed in a workmanlike manner, shall be placed so as to minimize environmental disturbance and conform to generally accepted engineering practice."

**2. Sublease Conditions**

The Lessee entering into and retaining a current lease with Pacific Gas and Electric Company (PG&E) for use of State-owned lands within the lease area described under PRC 4449.1, which was issued to PG&E on November 2, 1983, is an express condition of this lease. Such executed document shall be submitted to the Commission within six months following the beginning date of this lease; Commission approval of same shall be required as a condition of this lease's continuance. Lessee now enjoys written permission to enter onto PG&E's leased premises for project construction purposes pending the completion of negotiations.

3. Consideration

Consideration for use of State land described in Section 3 shall be the public use and benefit so long as revenues do not exceed debt service, capital expenditures, overhead and operating expenses, repairs and maintenance of the facilities. However, at any such time that it is determined that revenues exceed the stated costs, the Commission reserves the right to charge an annual rental in accordance with Commission policy then in effect. Lessee understands and agrees that revenues and expenditures from all operations authorized herein shall be clearly segregated and accountable separately from those operations situated within any granted area.

4. Dredging

- A. A royalty of \$0.25 per cubic yard shall be paid for any dredged material sold or used for private or commercial benefit. There shall be no royalty charged for material placed on public lands dedicated to the public benefit and use.
- B. It is further agreed that lessee shall submit copies of reports or contracts with the dredging operator substantiating the volume of materials dredged and any royalties due to the Commission on a quarterly basis, on forms supplied by the Commission (Form 30.9). It is agreed that lessee shall submit said forms on or before the fifteenth (15th) day of the month following the end of each permit quarter, together with payment for the royalty due on the volume removed during that quarter. The first permit quarter shall be the first three months following the effective date of this permit, and every three-month period thereafter shall be a permit quarter.
- C. It is agreed that lessee shall furnish the Commission with copies of final surveys or copies of any other computations used as a basis to verify dredge volumes with twenty-five (25) days of completion of the activity authorized hereunder.

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87-7185  
CALENDAR PAGE 203  
PAGE PAGE 2524



SECTION 3

LAND DESCRIPTION

W 23649

Two parcels of tide and submerged land in the Sacramento River, vicinity of Pittsburg, Contra Costa County, California, described as follows:

PARCEL 1

BEGINNING at Station 6 as shown on the map entitled "Plat of the North Property Line of P.G.&E.", filed for record in Book 19, Page 33, Licensed Land Surveys, Contra Costa County Records, thence from said point of beginning along said property line N 72°22'01" W, 473.90 feet; thence leaving said line N 17°37'28" E, 319.06 feet; thence N 38°25'11" W 129.99 feet, thence N 45°56'11" E 137.31 feet; thence S 72°22'01" E, 566.65 feet; thence S 17°37'58" W, 141.29 feet; thence S 89°47'57" W, 52.50 feet; thence S 17°37'58" W, 355.18 feet to the point of beginning.

PARCEL 2

BEGINNING at Station 5 as shown on the map entitled "Plat of the North Property Line of P.G.&E.", filed for record in Book 19, Page 33, Licensed Land Surveys, Contra Costa County Records; thence from said point of beginning along said property line S 72°22'01" E, 189.88 feet; thence leaving said property line N 17°37'28" E 319.06 feet; thence N 38°25'11" W, 129.99 feet; thence S 45°56'11" W 496.47 feet to a point on said property line; thence along said property line S 88°52'32" E, 159.99 feet to the point of beginning.

This description is based on the California Coordinate System of 1927, Zone 3.

END OF DESCRIPTION

PREPARED MARCH 9, 1987, BY BOUNDARY SERVICES UNIT, M. L. SHAFER, SUPERVISOR.

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## SECTION 4 GENERAL PROVISIONS

### 1. GENERAL

These provisions are applicable to all leases, permits, rights-of-way, easements, or licenses or other interests in real property conveyed by the State Lands Commission.

### 2. CONSIDERATION

#### (a) Categories

##### (1) Rental:

Lessee shall pay the annual rental as stated in Section 1 or 2 to Lessor without deduction, delay or offset, on or before the beginning date of this Lease and on or before each anniversary of its beginning date during each year of the Lease term.

##### (2) Royalty or other consideration:

Lessee shall pay a royalty or other consideration in the amount, method and manner as specified in Section 1 or 2.

##### (3) Non-Monetary Consideration:

If a monetary rental, royalty, or other consideration is not specified in Section 1 or 2, consideration to Lessor for this Lease shall be the public use, benefit, health or safety, as appropriate, however Lessor shall have the right to review such consideration at any time and to set a monetary rental if the State Lands Commission, at its sole discretion, determines that such action is in the best interest of the State. Lessee shall notify Lessor within ten (10) days in the event that the public is charged any direct or indirect fee for use and enjoyment of the Lease Premises.

#### (b) Modification:

Lessor may modify the amount or rate of consideration effective on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary, without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary. Any modification of the amount or rate of consideration made pursuant to this paragraph shall conform to Title 2, Division 3 of the California Administrative Code and no such modification shall become effective unless Lessee is given written notice at least sixty (60) days prior to the effective date.

#### (c) Penalty and Interest

Any installments of rental, royalty, or other consideration accruing under this Lease not paid when due shall be subject to a penalty and shall bear interest as specified in Public Resources Code Section 6324 and Section 2.

### 3. BOUNDARIES

This Lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary claims which may be asserted presently or in the future.

### 4. LAND USE

#### (a) General:

Lessee shall use the Lease Premises only for the purpose or purposes stated in Section 1 or 2 and only for the operation and maintenance of the improvements authorized in Section 1 or 2. Lessee shall commence use of the Lease Premises within ninety (90) days of the beginning date of this lease. Thereafter Lessee's discontinuance of such use for a period of ninety (90) days shall be conclusively presumed to be an abandonment.

#### (b) Repairs and Maintenance:

Lessee shall, at its own expense, keep and maintain the Lease Premises and all improvements in good order and repair and safe condition.

#### (c) Additions, Alterations and Removal:

(1) Additions: - No improvements other than those ex-

pressly authorized in Section 1 or 2 of this Lease shall be constructed by the Lessee on the Lease Premises without the prior written consent of Lessor. Lessee shall notify Lessor within ten (10) days after commencing the construction of authorized improvements and within sixty (60) days after completing them.

(2) Alteration or Removal - Except as provided under this Lease, no alteration or removal of existing improvements or natural features of the Lease Premises shall be undertaken without the prior written consent of Lessor.

#### (d) Conservation:

Lessee shall practice conservation of water and other natural resources and shall prevent pollution and harm to the environment in or on the Lease Premises.

#### (e) Enjoyment:

Nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or activity constitute a material interference with Lessee's use and enjoyment of the Lease Premises as provided under this Lease.

#### (f) Discrimination:

Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, national origin, sex, age, or physical handicap.

#### (g) Residential Use:

Unless otherwise allowed under this Lease, improvements on the Lease Premises shall not be used as a residence or for the purpose of mooring a floating residence.

### 5. RESERVATIONS, ENCUMBRANCES AND RIGHTS-OF-WAY

#### (a) Reservations:

(1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to oil, coal, natural gas and other hydrocarbons, minerals, aggregates, timber and geothermal resources, as well as the right to grant leases in and over the Lease Premises for the extraction of such natural resources, however such leasing shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.

(2) Lessor expressly reserves a right to go on the Lease Premises and all improvements for any purpose associated with this Lease or for carrying out any function required by law, or the rules, regulations or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Lessee owned or occupied lands adjacent to the Lease Premises for any purpose associated with this Lease.

(3) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this Lease, however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.

(4) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the lease term for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease.

#### (b) Encumbrances:

This Lease may be subject to pre-existing contracts, leases, licenses, easements, encumbrances and claims and it is made without warranty by Lessor of title, condition or fitness of the land for the stated or intended use. 2326

(c) **Rights-of-Way**

If this Lease is for a right-of-way covering one or more pipelines or conduits, the Lease Premises include only land actually underlying the pipelines or conduits, and Lessor hereby grants to Lessee a non-exclusive right to go onto the lands hereby granted to the Lease Premises as is reasonable and necessary for installation, inspection and maintenance of the pipelines or conduits.

**6. RULES, REGULATIONS AND TAXES**

(a) Lessor and Lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission or any other governmental agency or entity having lawful authority and jurisdiction.

(b) Lessee recognizes and understands in accepting this Lease that it may be liable for a possessory interest tax imposed by a city or county on its leasehold interest and that its payment of such a tax shall not reduce the amount of consideration due Lessor under this Lease and that Lessor shall have no liability for the payment of such a tax.

**7 INDEMNITY**

(a) Lessor shall not be liable and Lessee shall indemnify, hold harmless and, at the option of Lessor, defend Lessor, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause, occurring on the Lease Premises or improvements, or arising out of or connected in any way with the issuance of this Lease.

(b) Lessee shall give prompt notice to Lessor in case of any accident, injury or casualty on the Lease Premises.

**8. LIABILITY INSURANCE**

(a) If so specified in Section 1 or 2, Lessee shall obtain at its own expense and keep in full force and effect during the Lease term with an insurance company acceptable to Lessor comprehensive liability insurance, for specified categories and amounts, insuring Lessee and Lessor against any and all claims or liability arising out of the ownership, use, occupancy, condition or maintenance of the Lease Premises and all improvements:

(b) The insurance policy or policies shall name the State as an additional insured or co-insured party as in the Lease Premises and shall identify the Lease by its assigned number. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current.

(c) The liability insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved by Lessor or restored pursuant to Paragraph 13.

**9. SURETY BOND**

(a) If so specified in Section 1, Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants and conditions of this Lease.

(b) Lessor may increase the amount of the surety bond or other security device to cover any additionally authorized improvements, alterations or purposes and any modification of consideration.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved by Lessor or restored pursuant to Paragraph 13.

**10. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING**

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor.

(b) This Lease shall be appurtenant to littoral or riparian land and any ownership interest or use rights of Lessee in such lands and it shall not be severed from such rights or interests without the prior written consent of Lessor.

**11. DEFAULT AND REMEDIES**

(a) **Default:**  
The occurrence of any one or more of the following events shall constitute a default or breach of this Lease by Lessee:

(1) Lessee's failure to make any payment of rental, royalty, or other consideration as required under this Lease.

(2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease.

(3) Lessee's vacation or abandonment of the Lease Premises during the Lease term.

(4) Lessee's failure to observe or perform any other term, covenant or condition of this Lease to be observed or performed by the Lessee when such failure shall continue for a period of sixty (60) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach is such that more than sixty (60) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such sixty (60) day period and diligently proceeds with such cure to completion.

(b) **Remedies:**

In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may at any time and with or without notice do any one or more of the following:

(1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises.

(2) Terminate this Lease and Lessee's right of possession of the Lease Premises. Such termination shall be effective upon Lessor's giving written notice and upon receipt of such notice Lessee shall immediately surrender possession of the Lease Premises to Lessor.

(3) Maintain this Lease in full force and effect and recover any rental, royalty, or other consideration as they become due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises.

(4) Exercise any other right or remedy which Lessor may have at law or in equity.

**12. LESSEE'S TERMINATION**

Lessee may terminate this Lease for any reason upon giving Lessor at least sixty (60) days prior written notice. Lessee agrees that on the effective date of termination it shall responsibly leave and surrender the Lease Premises to Lessor in a state of good order, condition, repair, and restoration as provided under Paragraphs 4(b) and 13. The exercise of such right of termination shall not release Lessee from liability for any unpaid but accrued rental, royalty or other consideration which may be due under this Lease or from any other obligations still applicable under the Lease. No portion of any rental paid by Lessee in advance shall be refunded.

ORIGINAL PAGE 256  
DUPLICATE PAGE 2527

**13. RESTORATION OF LEASE PREMISES**

(a) Upon expiration or sooner termination of this Lease, Lessor may accept all or any portion of the Lease Premises, as then improved with structures, buildings, pipelines, machinery, facilities and fills in place; or Lessor may require Lessee to remove all or any portion of such improvements at its sole expense and risk, or Lessor may itself remove or have removed all or any portion of such improvements at Lessee's sole expense.

(b) In removing any such improvements Lessee shall restore the Lease Premises as nearly as possible to the conditions existing prior to their installation or construction.

(c) All such removal and restoration shall be to the satisfaction of Lessor and shall be completed within ninety (90) days of the expiration or sooner termination of this Lease.

**14. QUITCLAIM**

Lessee shall, within ninety (90) days of the expiration or sooner termination of this Lease, execute and deliver to Lessor in a form provided by Lessor a good and sufficient release of all rights under this Lease. Should Lessee fail or refuse to deliver such a release, a written notice by Lessor reciting such failure or refusal shall, from the date of its recordation, be conclusive evidence against Lessee and all other claimants of the termination of this Lease and any rights or interests of Lessee in the Lease Premises.

**15. HOLDING-OVER**

Any holding-over by Lessee after the expiration of the Lease term, with or without the express or implied consent of Lessor, shall constitute a tenancy from month to-month and not an extension of the Lease term and shall be on the terms, covenants and conditions of this Lease with rental, royalty or other consideration payable in advance on the first day of each month, at the rate of one-twelfth (1/12th) of the annual amount.

**16. ADDITIONAL PROVISIONS**

(a) Waiver:

(i) No term, covenant or condition of this Lease and no default or breach of any such term, covenant or condition shall be deemed to have been waived, by Lessor's acceptance of a late or nonconforming performance or otherwise, unless such a waiver is expressly acknowledged by Lessor in writing.

(2) Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition or any other default or breach of any term, covenant or condition of this Lease.

(b) Time:

Time is of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

(c) Notice:

All notices required to be given under this Lease shall be given in writing, sent by United States mail with postage prepaid, to Lessor at the offices of the State Lands Commission and to Lessee at the address specified in Section 1. Lessee shall give Lessor notice of any change in its name or address.

(d) Consent:

Where Lessor's consent is required under this Lease its consent for one transaction or event shall not be deemed to be a consent to any subsequent occurrence of the same or any other transaction or event.

(e) Changes:

This Lease may be terminated and its term, covenants and conditions amended, revised or supplemented by mutual agreement of the parties.

(f) Successors:

The terms, covenants and conditions, of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, successors, and assigns of the respective parties and if more than one Lessee is a party to this Lease, the obligations of the Lessees shall be joint and several.

(g) Captions:

The captions of this Lease are not controlling and shall have no effect upon its construction or interpretation.

(h) Severability:

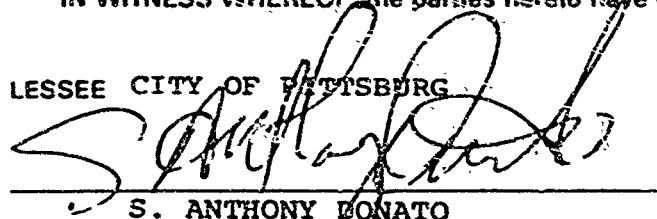
If any term, covenant or condition of this Lease is judicially determined to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms, covenants and conditions.

STATE OF CALIFORNIA - STATE LANDS COMMISSION  
LEASE P.R.C. No. 7063.9

This lease will become binding upon the State only when duly executed on behalf of the State Lands Commission of the State of California:

IN WITNESS WHEREOF, the parties hereto have executed this lease as of the date hereafter affixed.

LESSEE CITY OF PITTSBURG

  
\_\_\_\_\_  
S. ANTHONY DONATO  
CITY MANAGER

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

By: Leslie J. Jones  
Deputy Chief  
Title: Division of Land Management and Conservation  
Date: MAY 14 1987

FILED PAGE 257  
FILED PAGE 2528

ACKNOWLEDGEMENT

The issuance of this lease was authorized by the State Lands Commission on 3 26 87  
(Month Day Year)