

MINUTE ITEM

This Calendar Item No. C46 was approved as Minute Item No. 46 by the California State Lands Commission by a vote of 3 to 0 at its 02-09-06 meeting.

CALENDAR ITEM  
C46

A 19  
S 8

02/09/06  
PRC 5467.1  
D. Plummer

TERMINATION OF GENERAL LEASE - COMMERCIAL USE AND  
ISSUANCE OF A GENERAL LEASE - COMMERCIAL USE

LESSEE:

Robert M. Sherman  
410 Airport Blvd.  
Burlingame, CA 94010

APPLICANT:

Dago Mary's, a California Corporation  
1875 Mission Street  
San Francisco, CA 94103

LAND TYPE, AND LOCATION:

Filled and unfilled sovereign lands in the city of Burlingame, San Mateo County.

AUTHORIZED USE:

Operation of a restaurant, parking lot, and public access amenities.

CURRENT LEASE TERM:

25 years, beginning May 1, 1996.

PROPOSED LEASE TERM:

25 years, beginning April 1, 2006.

CONSIDERATION:

Three percent of gross income derived from the restaurant and bar operations; 25 percent of gross income from the operations of coin operated vending and electronic game machines; ten percent from all other gross income derived from the use of the Lease Premises. Lessee shall pay a monthly minimum rent in the amount of \$750 with the State reserving the right to adjust the rent periodically during the lease term, as provided in the lease.

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**SPECIFIC LEASE PROVISIONS:**

Insurance:

Commercial General Liability in an amount of no less than \$5,000,000.  
Liquor Liability in an amount no less than \$2,000,000  
Worker's Compensation in accordance with California law.

Bond:

\$20,000.

**BACKGROUND INFORMATION:**

In 1978, the Commission authorized a General Lease – Commercial Use, PRC 5467.1, to Robert M. Sherman for a term of 18 years. The lease authorized the mooring of a decommissioned vessel known as the “S.S. Gen. Frank M. Coxe”, to be used as a floating restaurant, together with parking facilities to accommodate the restaurant. The Lease was amended several times during the intervening years and the current lease expires in April 2021. Over the years, the restaurant has operated intermittently through a number of subleases and assignments. Mr. Sherman has, over the last several years, refurbished the vessel and now desires to sell the vessel.

Dago Mary's, a California Corporation (Dago Mary's), has entered into an option agreement to purchase the vessel and desires to obtain a new lease from the Commission to once again operate a restaurant at the site. Dago Mary's currently operates two successful restaurants in the city and county of San Francisco and is a viable Applicant to operate this site as a successful restaurant. The request for a new lease is based upon the fact that only 15 years remains on the existing lease, which is too short a time for the amount of capital investment required. Staff and Dago Mary's have agreed to the terms of a new lease

**OTHER PERTINENT INFORMATION:**

1. Mr. Sherman and Dago Mary's have requested that the existing lease be terminated and that the Commission issue a new lease to Dago Mary's, with a beginning date of April 1, 2006.
2. **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 CEQA because it is not a “project” as defined by the CEQA and the State CEQA Guidelines.

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

3. **Issuance of 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.

4. 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.

**EXHIBIT:**

- A. Location Map

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

**TERMINATION OF EXISTING LEASE:** FIND THAT THE ACTIVITY IS EXEMPT FROM 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 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

**ISSUANCE OF 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

CALENDAR ITEM NO. C46 (CONT'D)

FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS,  
SECTION 2905 (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 SECTIONS 6370,  
ET SEQ.

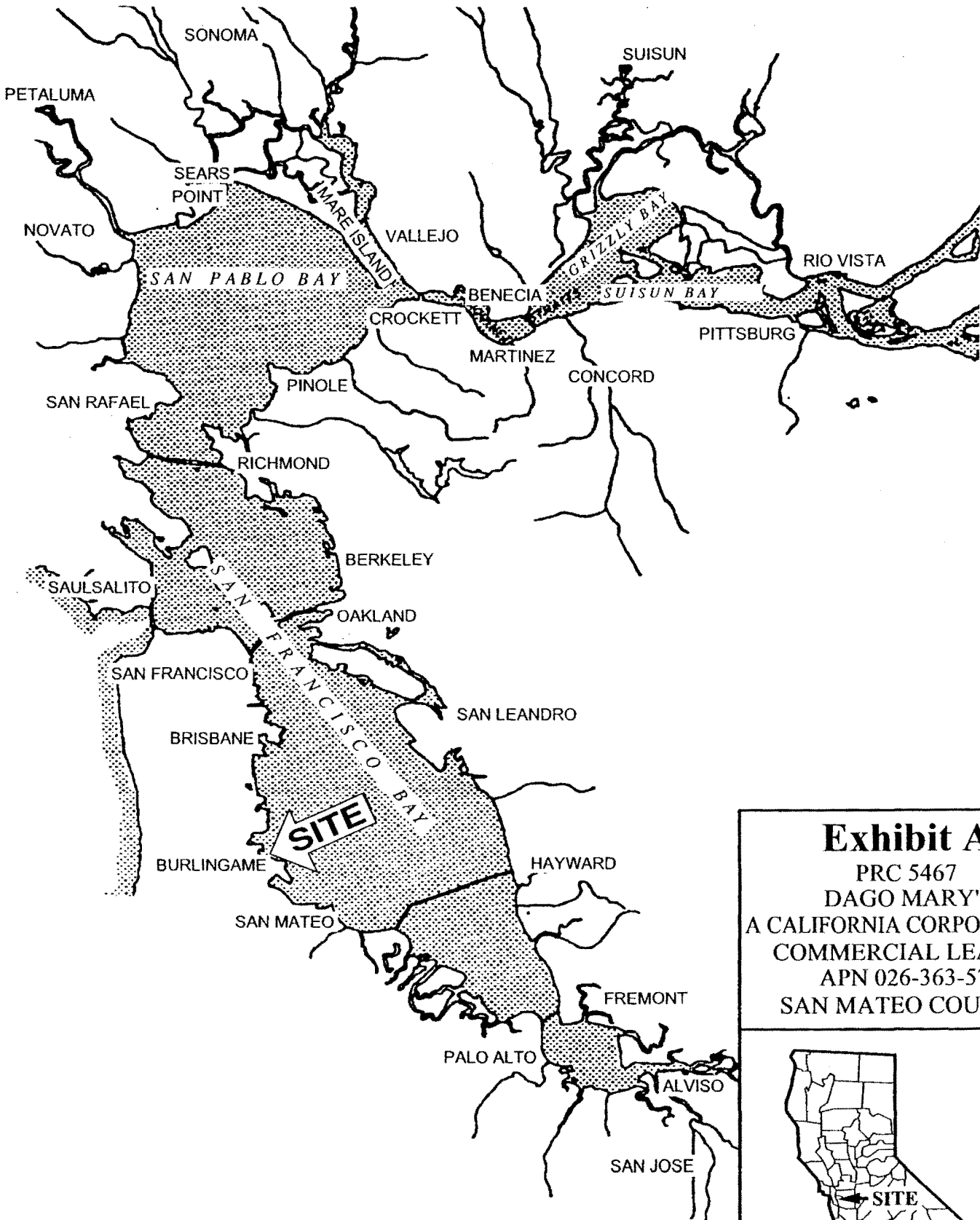
**AUTHORIZATIONS:**

AUTHORIZE THE TERMINATION OF LEASE NO. PRC 5467.1,  
EFFECTIVE APRIL 1, 2006.

AUTHORIZE THE ISSUANCE TO DAGO MARY'S, A CALIFORNIA  
CORPORATION, OF A GENERAL LEASE – COMMERCIAL USE,  
BEGINNING ON APRIL 1, 2006, FOR A TERM OF 25 YEARS, FOR THE  
CONTINUED USE OF THE LEASE PREMISES FOR THE MOORING OF  
THE VESSEL KNOWN AS THE "S.S. GEN. FRANK M. COXE" TO BE  
USED AS A FLOATING RESTAURANT AND BAR, A PARKING LOT TO  
SERVE PATRONS, AND PUBLIC ACCESS AMENITIES; WITH  
CONSIDERATION BEING THREE PERCENT OF GROSS INCOME  
FROM THE RESTAURANT AND BAR OPERATIONS, 25 PERCENT OF  
GROSS INCOME FROM COIN OPERATED VENDING AND  
ELECTRONIC GAME MACHINES, AND TEN PERCENT OF ALL OTHER  
GROSS INCOME DERIVED FROM THE USE OF THE LEASE  
PREMISES; WITH A MINIMUM MONTHLY RENT IN THE AMOUNT OF  
\$750; WITH THE STATE RESERVING THE RIGHT TO ADJUST THE  
RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN  
THE LEASE; WITH COMMERCIAL GENERAL LIABILITY INSURANCE  
IN AN AMOUNT NO LESS THAN \$5,000,000, LIQUOR LIABILITY IN AN  
AMOUNT NO LESS THAN \$2,000,000, AND WORKER'S  
COMPENSATION IN ACCORDANCE WITH CALIFORNIA LAW; WITH A  
SURETY BOND IN THE AMOUNT OF \$20,000.

NO SCALE

# SITE



## Exhibit A

PRC 5467  
 DAGO MARY'S  
 A CALIFORNIA CORPORATION  
 COMMERCIAL LEASE  
 APN 026-363-57  
 SAN MATEO COUNTY



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.