

**CALENDAR ITEM
C85**

A 67
S 35

03/29/12
PRC 8284.1
S. Paschall

REVISION OF RENT

LESSEES:

Marlene Cheng Dauger, Trustee of the Marlene Cheng Dauger Qualified Personal Residence Trust dated May 20, 1999, and Alan B. Dauger, Trustee of the Alan B. Dauger Qualified Personal Residence Trust dated May 20, 1999

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Huntington Harbour, adjacent to 3582 Venture Drive, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat dock, access ramp, cantilevered deck, and bulkhead protection.

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 rent be revised from \$770 per year to \$923 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 Marlene Cheng Dauger, Trustee of the Marlene Cheng Dauger Qualified Personal Residence Trust Dated May 20, 1999, and Alan B. Dauger, Trustee of the Alan B. Dauger Qualified Personal Residence Trust Dated May 20, 1999, for 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.

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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 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:
 - 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.

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 a rental consideration is the cantilevered deck.

3. 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.

EXHIBIT:

- A. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

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

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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 8282.1 from \$770 per year to \$923 per year, effective May 10, 2012.

EXHIBIT A

PRC 8284.1

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 46, as said lot is shown and so designated on that certain map of Tract No. 9335 filed in Book 386, Pages 32 and 33 of Miscellaneous Maps, Official Records of said County; thence along the southwesterly extension of the southeasterly 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. 5503, passed and adopted May 6, 1985 by the City Council of the City of Huntington Beach and recorded May 10, 1985 as Document 85-170510, Official Records of said County; thence northwesterly along said pierhead line to the southwesterly extension of the northwesterly 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 southwesterly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 04/19/2007 by the California State Lands Commission Boundary Unit

