

**CALENDAR ITEM
C74**

A 67
S 35

08/14/12
PRC 3167.1
S. Paschall

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Robert Isaacs and Michelle Isaacs; Robert Isaacs and Michelle Isaacs, Trustees of The Isaacs Family Revocable Trust Dated January 31, 1995

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Huntington Harbour, adjacent to 16552 Somerset Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of a boat dock, access ramp, and cantilevered deck extending no more than five feet waterward of the bulkhead.

LEASE TERM:

10 years, beginning March 23, 2012.

CONSIDERATION:

Annual rent in the amount of \$2,575 with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single-limit liability of no less than \$1,000,000.

Other:

No permanent roof or other enclosure will be constructed on the Lease Premises. Applicants agree that any proposed use of the Lease Premises that includes an extension of the actual living quarters constitutes residential use and is prohibited.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.

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2. 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 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.

3. On November 26, 2001, the Commission approved issuance of Recreational Pier Lease No. PRC 3167.9 to Robert Isaacs and Michelle Isaacs, for a period of 10 years beginning March 23, 2002, for use and maintenance of an existing boat dock. The upland property has since been deeded to the trust, and the Applicants are now applying for a new lease. A portion of the cantilevered deck and access ramp extend over the State's fee-owned land in the Main Channel of Huntington Harbour, and were not previously authorized by the Commission. Since the cantilevered deck and access ramp are existing, staff is recommending that they be included in the lease.

4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became 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 proposed lease does not meet either of the statutory exceptions and is thus subject to rent.

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5. 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.

6. 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:

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 Robert Isaacs and Michelle Isaacs, Trustees of The Isaacs Family Revocable Trust Dated January 31, 1995, beginning March 23, 2012 for a term of 10 years, for use and maintenance of an existing boat dock, access ramp, and cantilevered deck, as described in Exhibit A and shown on Exhibit B (for reference purpose only) attached and by this reference made a part

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hereof; consideration to be annual rent in the amount of \$2,575 per year; combined single-limit liability insurance coverage of no less than \$1,000,000.

EXHIBIT A

PRC 3167.1

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 northerly corner of Lot 38, as said lot is shown and so designated on that certain map of Tract No.4677 filed in Book 168, Pages 14 through 18 of Miscellaneous Maps, Official Records of said County; thence along the northeasterly extension of the northwesterly line of said lot 60.00 feet, more or less, to the pierhead line as said pierhead line is described in Resolution No. 5908, passed and adopted August 1, 1988 by the City Council of said City; thence southeasterly along said pierhead line to the northeasterly extension of the southeasterly line of said lot; thence along said extension 60.00 feet, more or less, to the most easterly corner of said lot; thence northwesterly along the northeasterly line of said lot to the point to beginning.

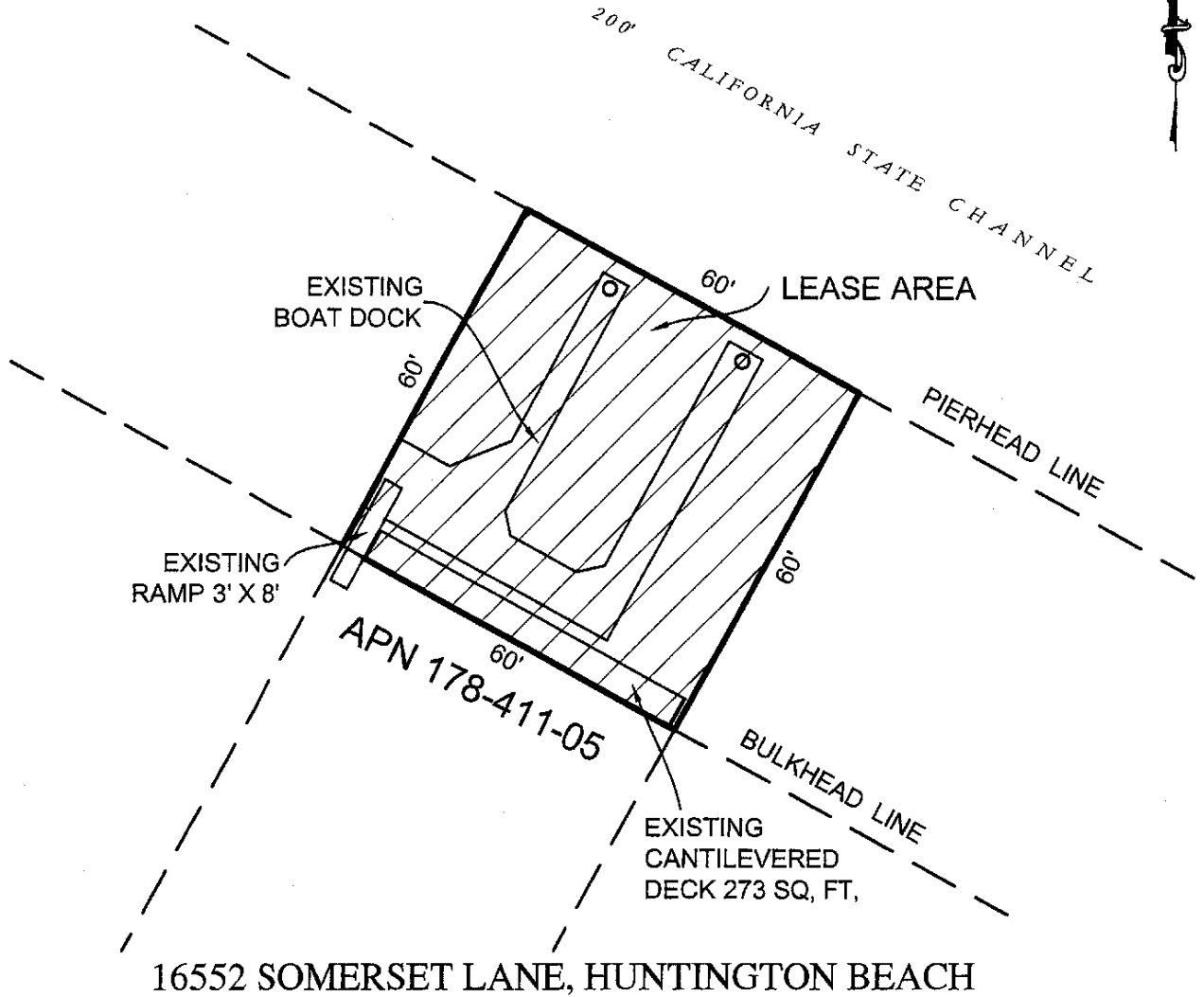
END OF DESCRIPTION

Prepared 04/04/2012 by the California State Lands Commission Boundary Unit



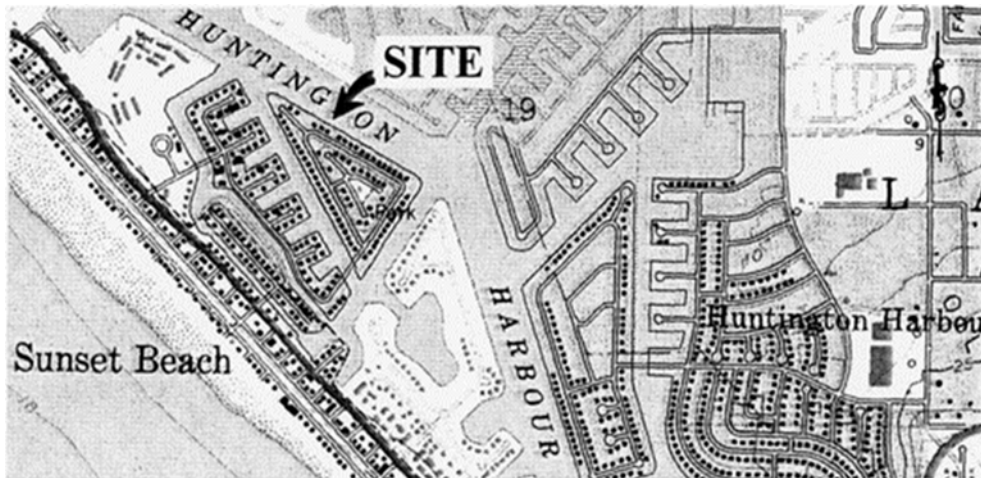
NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3167.1
 ISAACS
 APN 178-411-05
 GENERAL LEASE -
 RECREATIONAL USE
 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.

MIJ 04/04/12