

MINUTE ITEM

4/79  
WP 2589

18. RENEWAL AND AMENDMENT OF GENERAL LEASE - COMMERCIAL USE -  
MALIBU PIER CORPORATION - WP 2589.

The Commission deferred acting on the item until an "acceptable or good state of repair" is defined at which time a date will be set for restoration of the pier. In addition, the rental and liability coverage will also be reconsidered.

CONFIDENTIAL

BASIC

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(Nonsubstantive Revision, 4/10/80)

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Atkins

RENEWAL AND AMENDMENT OF  
GENERAL LEASE - COMMERCIAL USE

APPLICANT: Malibu Pier Corporation  
4927 Pacific Boulevard  
Vernon, California 90058

AREA, TYPE LAND AND LOCATION:  
Tide and submerged land, Malibu, Los Angeles  
County.

LAND USE: Commercial fishing and recreational pier  
and related tideland uses.

TERMS OF ORIGINAL LEASE:

Initial period: 15 years from November 16,  
1959.

Renewal options: 2 successive periods  
of 10 years each.

Surety bond: \$5,000.

Consideration: \$1,324 per annum.

TERMS OF PROPOSED LEASE:

Initial period: 10 years from November 15,  
1974.

Renewal options: 2 successive periods  
of 10 years each.

Surety bond: \$5,000.

Public liability insurance: Combined limited  
coverage of \$1,000,000.

CONSIDERATION: \$6,000 annual minimum, or 1% of gross income  
per annum, whichever is greater.

BASIS FOR CONSIDERATION:

Specified annual minimum, or percent of  
gross income.

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PREREQUISITE TERMS, FEES AND EXPENSES:

Applicant is owner of upland.

Filing fee has been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 & 2.

B. Cal. Adm. Code: Title 2, Div. 3.

OTHER PERTINENT INFORMATION:

1. Malibu Pier Corporation was the State's lessee under lease PRC 2589.1 beginning November 16, 1959. As of November 16, 1974 the lessee has been in a hold-over status. Substantial disagreement on renewal provisions prevented execution of a renewal lease. Following several years of negotiations, lease terms have been agreed upon. The proposed terms, as recommended for Commission approval herein, amend and renew the lease.
2. An EIR is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907, Class 1(B), which exempts an existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion, or other types of environmental degradation.
3. This project is situated on State land identified as possessing significant environmental values pursuant to P.R.C. 6370.1, and is classified in a use category, Class C, which authorizes Multiple Use.

Staff review indicates that there will be no significant effect upon the identified environmental values. This is an existing facility for which no adverse comments have been received.

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4. This project is exempt from the requirements of Article 6.5 of Title 2 of the Cal. Adm. Code because this is an existing facility.
5. The standard lease covenants on this lease have been changed as follows to accommodate this lease agreement:
  1. Section 5, Paragraphs 2(a) delete lines 5 through and including subsection 2(a). This eliminates 5-year rent reviews.
  2. Section 5, paragraph 3 (royalty) is deleted in its entirety. This deleted a rental based upon a royalty, which is inappropriate in this case.
  3. Section 5, paragraph 5 (non-monetary consideration), is deleted in its entirety. This paragraph is inappropriate.
  4. Section 5, Paragraph 7, delete that portion of line 4 beginning with "If such..." and ending "shall terminate upon notice to lessee." on line 9. This change better reflects the fact that this is an existing facility.
  5. Section 5, Paragraph 14, add the following sentence at the end of said paragraph:

"Provided, however, that a permit, lease or other agreement which would unreasonably interfere with lessee's operations hereunder shall not be granted."
  6. Section 5, Paragraph 16, subsection (c), is amended to read: "lessee covenants that all reasonable precautions will be taken to practice conservation and to prevent pollution and contamination of the environment."

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7. Section 5, Paragraph 28, change all numbers (90) to (365). This allows the lessee sufficient time to remove lease improvements, should the lease terminate.

Section 5, Paragraph 32, the first sentence is amended to provide that the lessee has two 10-year renewal options at same terms and conditions.

9. Section 5. Paragraphs 39, 40, 41, 42, 43 and 44 were added to accommodate the "percentage of Gross Income" rental.

EXHIBITS:           A. Land Description.           B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.
2. DETERMINE THAT THIS PROJECT IS EXEMPT FROM THE REQUIREMENTS OF ARTICLE 6.5 OF TITLE 2, OF THE CAL. ADM. CODE BECAUSE THIS PROJECT IS NOT A DEVELOPMENT WITHIN THE MEANING OF SECTION 2503, OF TITLE 2, OF THE CAL. ADM. CODE AND SECTION 30105 OF THE P.R.C.
3. FIND THAT GRANTING OF THE LEASE WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1 OF THE P.R.C.
4. AUTHORIZE THE RENEWAL AND AMENDMENT OF PRC 2589.1 BETWEEN THE COMMISSION AND THE MALIBU PIER CORPORATION. THE MODIFIED LEASE IS A 30-YEAR GENERAL LEASE - COMMERCIAL USE, EFFECTIVE NOVEMBER 15, 1974. THE FIRST PERIOD BEING 10-YEARS WITH LESSEE'S OPTION TO RENEW FOR 2 SUCCESSIVE PERIODS OF 10-YEARS EACH; IN CONSIDERATION OF A BASE ANNUAL RENT IN THE AMOUNT OF \$5,000 OR 1% OF GROSS INCOME PER ANNUM, WHICHEVER IS GREATER; PROVISION OF A \$5,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE, COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR A COMMERCIAL FISHING AND RECREATION PIER AND RELATED TIDELAND USES ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

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EXHIBIT "A"

WP 2569

A parcel of tide and submerged land lying immediately beneath and adjacent to an existing pier in the Pacific Ocean, Los Angeles County, California, the westerly line of said parcel being distant westerly 50 feet, measured at right angles, from the centerline of said pier, and the easterly line of said parcel being distant easterly 350 feet, measured at right angles, from the centerline of said pier, said pier being adjacent to, and southerly of, that certain parcel of land described in that grant deed recorded August 15, 1944 in Book 21117, page 357 in the office of the recorder of Los Angeles County.

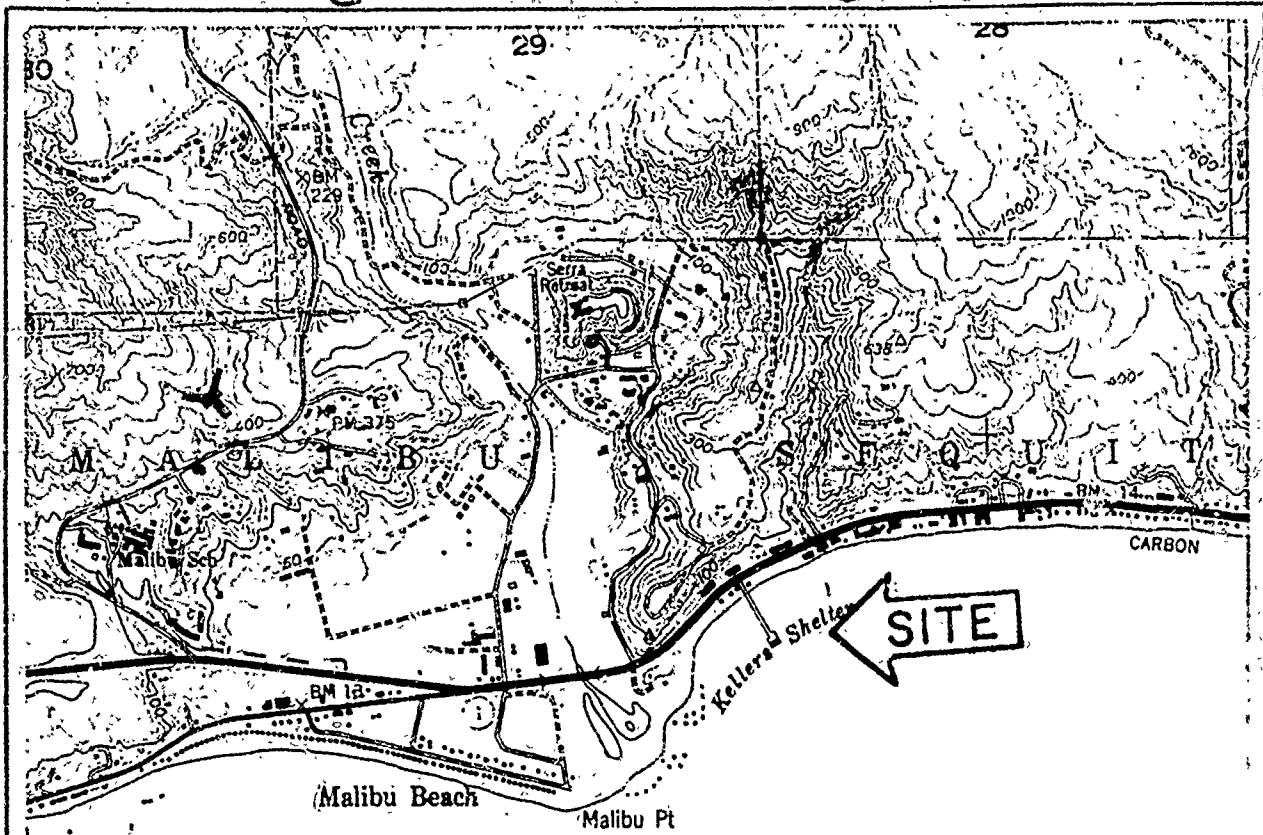
TOGETHER WITH a necessary use area extending no more than 15 feet southerly from the southerly edge of said pier.

EXCEPTING THEREFROM any portion thereof lying landward of the ordinary high water mark of the Pacific Ocean.

END OF DESCRIPTION

Prepared Ronald Bitterlicher Checked John R. Jesing  
Reviewed \_\_\_\_\_ Date 8-8-77

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M O N I C A B A

PACIFIC OCEAN

I C O

EXHIBIT " B "

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