

MINUTE ITEM

This Calendar Item No. C21 was approved as Minute Item No. 21 by the California State Lands Commission by a vote of 3 to 0 at its 11/27/00 meeting.

**CALENDAR ITEM
C21**

A 54
S 27

11/27/00
W 25647
G05-03
J. Reischman

DETERMINATIONS UNDER 6701 ET SEQ. OF THE PUBLIC RESOURCES CODE CONCERNING A LEASE BETWEEN THE CITY OF LONG BEACH AND JOHN HANCOCK MUTUAL LIFE INSURANCE CO. OR ROBERT C. PENNEY

The city of Long Beach has requested the California State Lands Commission (CSLC) make the determination set forth in Section 6702 (b) of the Public Resources Code with respect to the leases described below. Briefly, the determinations relate to: (a) conformance with the terms of the granting statutes; (b) assurances that proceeds of the leases shall be expended for statewide purposes as authorized by the granting statutes; and (c) whether the leases are in the best interest of the State.

HISTORY AND BACKGROUND

On December 17, 1981, the Commission reviewed a lease, under Section 6702(b) of the Public Resources Code, between the city of Long Beach and Catalina Landing Associates for the construction and use of four office buildings on approximately 9.508 acres of filled tide and submerged lands located south of Ocean Boulevard. The Commission made the findings that this lease was in accordance with CEQA and the State EIR guidelines; in accordance with the terms of the Long Beach granting statutes; and in the best interests of the State.

Currently John Hancock Mutual Life Insurance Company is the holder of that lease, upon foreclosure from the former leasehold owner, Catalina Landing Associates. The city is now prepared to terminate the existing lease and enter into a new 66-year lease and is seeking CSLC review and approval.

Two leases are proposed for review. These alternative leases will be legally delivered to either Robert C. Penney or John Hancock Life Insurance Company depending on whether or not Mr. Penney, an Alaskan investor, is able to secure financing to buy out the present leasehold interest of John Hancock Life Insurance Company. Mr. Penney will obtain financing through GMAC with the condition of CSLC making the Section 6702 (b) determinations. If Mr. Penney cannot complete the mentioned financing, the lease will be delivered to John Hancock Mutual Life Insurance Company. Each lease is substantially the same, in terms of allowable uses, as the current lease (as approved by the CSLC in 1981). There has been some modification to the rent clauses to reflect

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current leasing practices. Other clauses, relating largely to the security of lenders, also have been brought up to date.

Catalina Landing is an office complex that has occupied this site for approximately 20 years. Its most important tenant, Catalina Cruises, is undergoing a period of severe financial difficulties. Both Robert C. Penney and John Hancock Life Insurance Company have agreed, as a condition of the delivery of the lease, to provide Catalina Cruises with significant financial relief in the years ahead.

DESCRIPTION OF LEASE

LESSOR: City of Long Beach
Henry Taboada, City Manager
333 West Ocean Boulevard
Long Beach, California 90802

LESSEE: John Hancock Mutual Life Insurance Company
c/o Pillsbury, Madison & Sutro
650 Towne Center Drive, 7th Floor
Costa Mesa, California 92626-7122

or

Robert C. Penney
Penco Properties
3620 Penland Parkway
Anchorage, Alaska 95508

LOCATION: Approximately 9.508 acres of filled tide and submerged lands and 7.183 acres of submerged lands located south of Ocean Boulevard, on the north side of Queen's Way Landing, city of Long Beach (see site map attached).

LAND USE: Four office buildings containing approximately 275,959 square feet, a parking structure for 1,442 automobiles, streets, service roads, landscaping and other amenities, a passenger terminal, eating establishments, and cocktail lounge. The office space is to be occupied by "qualified tenants" (defined below).

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TERMS: Duration: 66 years from the commencement date (commencement date is the first day of the month following CSLC approval of the lease).

Rental: Annual rent for the partial lease year 2000 shall be a pro rate portion of the \$972,000 annual rent. For lease years 2001 through and including 2009, annual rent shall be \$972,000 per year. For lease years 2010 through and including 2014, annual rent shall be \$1,166,400 per year. In the year 2015, the annual rent shall be adjusted to be equal to the greater of: (a) 11% of the average gross annual rents and gross parking revenues for the previous two years or (b) \$1,166,400.

CONFORMANCE WITH GRANTING STATUTES

Legislative Acts relating to the leased lands include:

<u>Chapter</u>	<u>Year</u>
676	1911
102	1925
158	1935
29	1956, First E.S.
1560	1959
138	1964, First E.S.

Most commercial office use is not consistent with the public trust. However, due to the Commission's previous approval in 1981 and the specific language within the proposed lease stating "that Tenant shall, . . . , use its every commercial reasonable efforts to sublease the office space within any such office building to 'qualified tenants' who are defined as those persons, firms, entities, governmental agencies engaged in businesses, industries and activities the conduct of which in said office space will have . . . a direct beneficial effect upon the development, promotion, furtherance or accommodation of international commerce, transportation, shipping or navigation.", staff believes the lease to be in accordance with the terms and conditions of the granting statutes. As an example of a qualified tenant, the CSLC Marine Facilities Division and the southern California division of Department of Fish and Game are located in this office building.

In further support of this belief, the "Tenant shall annually furnish Landlord, by January 30th of each year, . . . , a detailed list of sub-tenants . . . , the terms of each such sub-

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lease, and a description of how each such sub-tenant is a 'qualified tenant'. Tenant shall . . . give a detailed narrative statement affirmatively demonstrating that it has met the requirements . . . as to its 'commercially reasonable efforts'."

DISPOSITION OF LEASE PROCEEDS

All revenues derived by the City from the leases are required by Long Beach City Charter Section 1710 to be deposited to the credit of the City Tideland Operating Fund. The fund is impressed with the trust and the proceeds may be expended only for purposes directly related to the operation, maintenance and improvement of the granted lands. This disposition of lease proceeds into the Tideland Operating Fund complies with the granting statutes and Section 6701 et seq. of the Public Resources Code.

ARE THE LEASES IN THE BEST INTEREST OF THE STATE?

In order for the Commission to determine whether these leases are in the best interest of the State, the California Code of Regulations, Section 2802 states that a lease must meet the following conditions:

- (a) "consistent with current commission policies, practices and procedures used for administering lands within the CSLC jurisdiction;
- (b) economically viable, necessary and desirable;
- (c) appropriate for developmental mix;
- (d) conducive to public access;
- (e) consistent with environmental protection;
- (f) otherwise in the best interest of the state."

LAND USE: The continued operation of the four office buildings per the leases will result in the following uses:

- (1) Passenger terminal, offices and related facilities/ services, for the business of providing cruises to and from Catalina Island and other points on the coast.
- (2) Office building is occupied by tenants which are to be occupied by "qualified tenants".
- (3) Parking structure to service the above uses.
- (4) Coffee shop.
- (5) Restaurant and cocktail lounge.

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- (6) Berthing and mooring facilities for tenants.
- (7) Usual and customary office support business (e.g. mail services and copy services).

CONSIDERATION: The year 2000 rent of \$972,000 represents an 8% rate of return on a \$12,150,000 land value. This value is equivalent to \$29.34 per square foot of land. Based on current and past work in the area, R.P. Laurain Associates (the City's appraisers) indicated that the overall value of Catalina Landing is between \$25.00 per square foot to \$35.00 per square foot of land. Based on this information the current lease payments are within the acceptable range of market value.

Staff believes that the leases meet all of the above referenced conditions.

STATEWIDE PUBLIC BENEFIT

The proposed uses of the site closely parallel the existing uses. Income accruing from the lease will be used for the betterment of the granted lands and aid in promoting related trust uses of the adjacent lands.

Activities such as a coffee shop, restaurant and cocktail lounge together with enhanced cruise service will allow more people to access and utilize this site.

The operation of the four office buildings conforms to the Local Coastal Plan and would provide the public with a facility that enhances the granted lands.

EXHIBIT:

- A. Site Map
- B. Legal Description

IT IS RECOMMENDED THAT THE COMMISSION:

1. 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 FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).
2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE

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LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6307,
ET SEQ.

3. MAKE THE FOLLOWING DETERMINATIONS, REQUIRED BY SECTION 6702 (B) OF THE PUBLIC RESOURCES CODE, AS APPLYING TO THE CERTAIN LEASES, BETWEEN THE CITY OF LONG BEACH AND JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY OR ROBERT C. PENNEY; ON FILE IN THE PRINCIPAL OFFICE OF THE COMMISSION AND BY REFERENCE MADE A PART HEREOF.
- (a) THAT SAID LEASES ARE IN ACCORDANCE WITH THE TERMS OF THE GRANTS UNDER WHICH TITLE TO THE LANDS IN QUESTION ARE HELD BY THE CITY OF LONG BEACH.
 - (b) THAT, PURSUANT TO LONG BEACH CITY CHARTER SECTION 1710, ALL REVENUES DERIVED FROM THE LEASE AND PERMIT SHALL BE DEPOSITED IN THE CITY'S "TIDELAND OPERATING FUND" EXPENDABLE ONLY FOR STATE-WIDE PUBLIC PURPOSES AS AUTHORIZED BY THE GRANTING STATUTE.
 - (c) THAT SAID LEASES ARE IN THE BEST INTEREST OF THE STATE.

NO SCALE

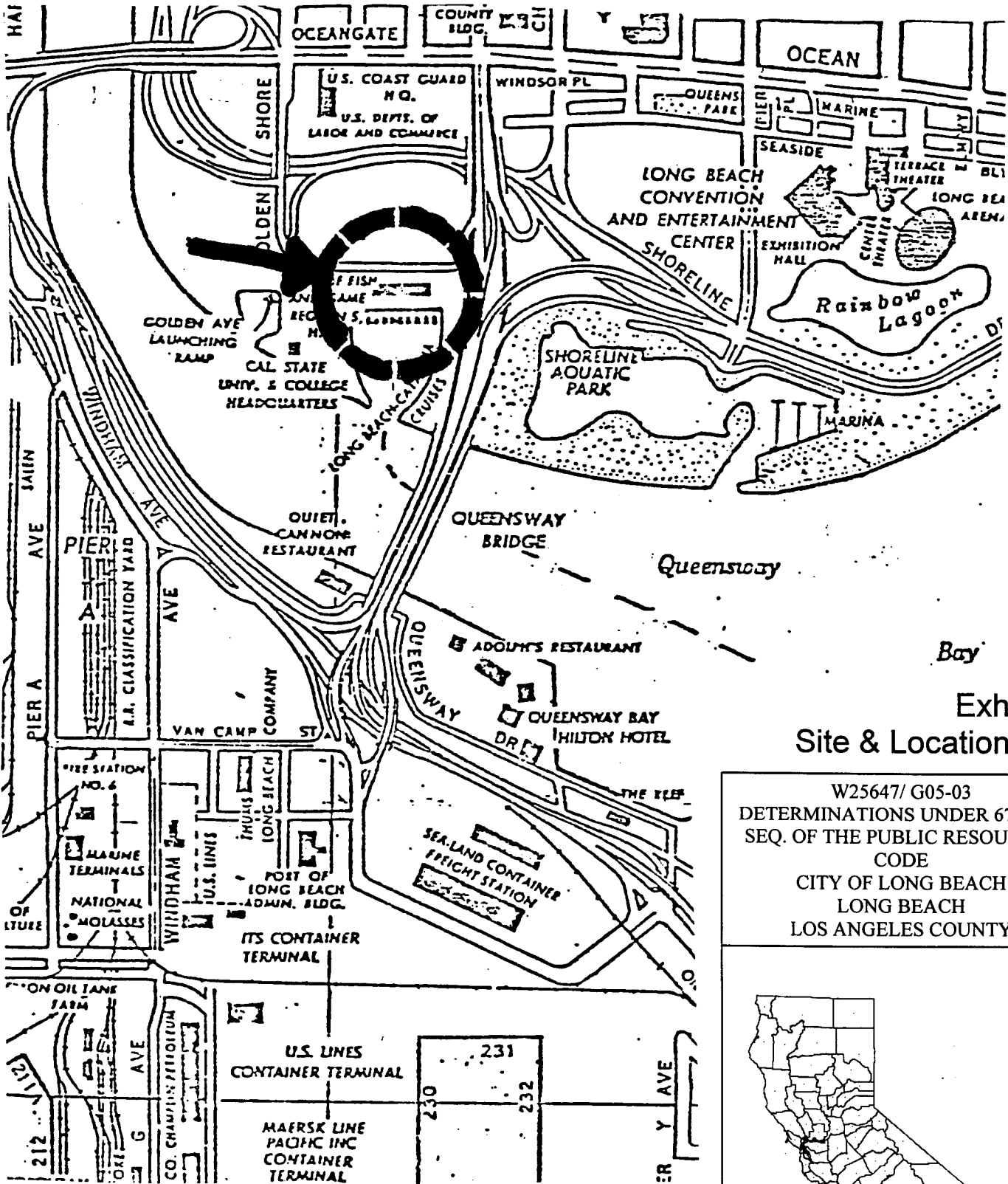
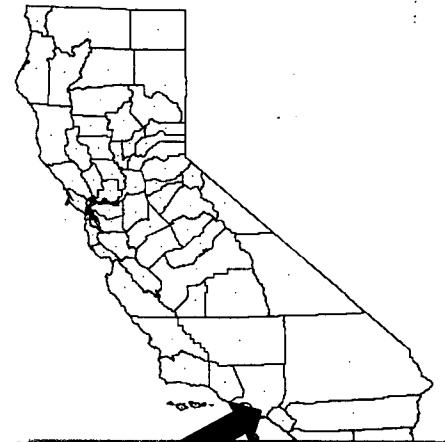


Exhibit A
Site & Location Map

W25647/ G05-03
DETERMINATIONS UNDER 6701 ET
SEQ. OF THE PUBLIC RESOURCES
CODE
CITY OF LONG BEACH
LONG BEACH
LOS ANGELES COUNTY



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This Exhibit is solely for purpose of generally defining the lease premise, 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.

EXHIBIT B

Legal Description of Premises

DESCRIPTION: THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

A PORTION OF THE ARTIFICIALLY CREATED LAND WITHIN THE TIDELANDS AND SUBMERGED LANDS CONVEYED TO THE CITY OF LONG BEACH BY THE STATE OF CALIFORNIA UNDER AN ACT OF MAY 1, 1911, CHAPTER 676, PAGE 1304, AS AMENDED, AS SHOWN ON CITY ENGINEERS FILE MAP NO. B-1774, SHEETS 1 THROUGH 4, DATED JUNE 9, 1959 ON FILE WITH THE CITY OF LONG BEACH, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 2 OF RECORD OF SURVEY FILED IN BOOK 86 PAGES 21 AND 22 OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE NORTH 0 DEGREES 01' 08" WEST 4.00 FEET; THENCE NORTH 89 DEGREES 59' 25" EAST 68.26 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 107.50 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45 DEGREES 00' 00" AN ARC LENGTH OF 84.43 FEET; THENCE NORTH 44 DEGREES 59' 25" EAST 44.67 FEET; THENCE NORTH 45 DEGREES 00' 35" WEST 64.57 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 80.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45 DEGREES 00' 00" AN ARC LENGTH OF 62.83 FEET; THENCE NORTH 0 DEGREES 00' 35" WEST 215.66 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 35.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90 DEGREES 00' 00" AN ARC LENGTH OF 54.98 FEET; THENCE NORTH 89 DEGREES 59' 25" EAST 578.50 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 35.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90 DEGREES 00' 00" AN ARC LENGTH OF 54.98 FEET; THENCE SOUTH 0 DEGREES 00' 35" EAST 202.16 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 80.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45 DEGREES 00' 00" AN ARC LENGTH OF 62.83 FEET; THENCE SOUTH 44 DEGREES 59' 25" WEST 79.00 FEET; THENCE SOUTH 45 DEGREES 00' 35" EAST 184.04 FEET TO A POINT ON A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 745.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 83 DEGREES 16' 28" EAST; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19

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DEGREES 20' 21" AN ARC LENGTH OF 251.46 FEET; THENCE SOUTH 12 DEGREES 36' 49" WEST 83.00 FEET; THENCE SOUTH 89 DEGREES 59' 25" WEST 143.58 FEET, MORE OR LESS, TO A POINT ON THE FACE OF A CONCRETE BULKHEAD, SAID POINT ALSO BEING THE WATER LINE AND BEING ON A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 690.00 FEET, A RADIAL TO SAID POINT BEARS SOUTH 87 DEGREES 31' 05" EAST; THENCE NORTHERLY AND WESTERLY ALONG SAID CONCRETE BULKHEAD THE FOLLOWING COURSES AND DISTANCES: NORTHERLY ALONG SAID LAST MENTIONED CURVE HAVING A RADIUS OF 690.00 FEET THROUGH A CENTRAL ANGLE OF 2 DEGREES 29' 30" AN ARC LENGTH OF 30.00 FEET; THENCE NORTH 0 DEGREES 00' 35" WEST 170.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 50.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90 DEGREES 00' 00" AN ARC LENGTH OF 78.54 FEET; THENCE SOUTH 89 DEGREES 59' 25" WEST 482.50 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 50.00 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 41 DEGREES 18' 55" AN ARC LENGTH OF 36.05 FEET; THENCE LEAVING SAID CONCRETE BULKHEAD LINE, NORTH 51 DEGREES 09' 08" WEST 60.76 FEET; THENCE NORTH 0 DEGREES 01' 08" WEST 18.97 FEET; THENCE SOUTH 89 DEGREES 58' 52" WEST 19.29 FEET; THENCE NORTH 0 DEGREES 01' 08" WEST 96.05 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL MINERALS AND MINERAL RIGHTS OF EVERY KIND OR NATURE LYING BELOW THE SURFACE OF SAID AREA, AND EXCEPT THEREFROM ALL RIGHTS TO THE SUBSURFACE OF SAID LAND AND WATER AREA MORE THAN ONE HUNDRED (100) FEET BELOW GROUND LEVEL OR WATER SURFACE LEVEL, OTHER THAN THE RIGHT TO DRIVE PILES TO A DEPTH GREATER THAN ONE HUNDRED (100) FEET, AS RESERVED IN THE LEASE DATED MAY 6, 1981, EXECUTED BY THE CITY OF LONG BEACH, AS LESSOR AND CROWLEY DEVELOPMENT CORPORATION, LESSEE, A SHORT FORM OF SAID LEASE BEING RECORDED ON AUGUST 5, 1983 AS INSTRUMENT NO. 83-901168 OFFICIAL RECORDS. SAID LEASE FURTHER PROVIDES:

LANDLORD SHALL NOT EXERCISE ANY RIGHT OF SURFACE ENTRY ON THE PREMISES NOR ANY RIGHT TO USE THE SUBSURFACES OF THE LAND AND WATER AREAS DESCRIBED WITHIN ONE HUNDRED (100) FEET BELOW GROUND LEVEL OR WATER SURFACE LEVEL OF SAID PREMISES FOR THE PURPOSE OF MINERAL EXPLORATION OR DEVELOPMENT.

PARCEL 2:

A PORTION OF THE ARTIFICIALLY CREATED LAND AND WATER AREA WITHIN THE TIDELANDS AND SUBMERGED LANDS CONVEYED TO THE CITY OF LONG BEACH BY THE STATE OF CALIFORNIA UNDER AN ACT OF MAY 1, 1911, CHAPTER 676, PAGE 1304, AS AMENDED, AS SHOWN ON CITY ENGINEERS FILE

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MAP NO. B-1774, SHEETS 1 THROUGH 4, DATED JUNE 9, 1959 ON FILE WITH THE CITY OF LONG BEACH, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 2 OF RECORD OF SURVEY FILED IN BOOK 86 PAGES 21 AND 22 OF RECORD OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE SOUTH 0 DEGREES 01' 08" EAST 96.05 FEET; THENCE NORTH 89 DEGREES 58' 52" EAST 19.29 FEET; THENCE SOUTH 0 DEGREES 01' 08" EAST 18.97 FEET; THENCE SOUTH 51 DEGREES 09' 08" EAST 60.76 FEET, MORE OR LESS, TO A POINT ON THE FACE OF A CONCRETE BULKHEAD, SAID POINT ALSO BEING THE WATER LINE AND BEING ON A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 50.00 FEET, A RADIAL LINE FROM SAID POINT BEARS SOUTH 41 DEGREES 19' 30" EAST, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 41 DEGREES 18' 55" AN ARC LENGTH OF 36.05 FEET; THENCE NORTH 89 DEGREES 59' 25" EAST 482.50 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 50.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90 DEGREES 00' 00" AN ARC LENGTH OF 78.54 FEET; THENCE SOUTH 0 DEGREES 00' 35" EAST 170.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 690.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26 DEGREES 50' 41" AN ARC LENGTH OF 323.28 FEET; THENCE NORTH 63 DEGREES 09' 54" WEST ALONG A RADIAL LINE 75.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 615.00 FEET, A RADIAL LINE OF SAID CURVE TO SAID POINT BEARS SOUTH 63 DEGREES 09' 54" EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE HAVING A RADIUS OF 615.00 FEET, THROUGH A CENTRAL ANGLE OF 3 DEGREES 09' 19" AN ARC LENGTH OF 33.87 FEET TO A POINT OF COMPOUND CURVE; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 915.00 FEET, THROUGH A CENTRAL ANGLE OF 10 DEGREES 25' 52" AN ARC LENGTH OF 166.58 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 49 DEGREES 34' 43" WEST; THENCE NORTH 66 DEGREES 00' 35" WEST 118.52 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE OF SAID CURVE TO SAID POINT BEARS SOUTH 66 DEGREES 00' 35" EAST; THENCE NORTHWESTERLY ALONG SAID CURVE HAVING A RADIUS OF 15.00 FEET, THROUGH A CENTRAL ANGLE OF 123 DEGREES 33' 26" AN ARC LENGTH OF 32.35 FEET TO A POINT OF REVERSE CURVE; THENCE WESTERLY ALONG A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 15.00 FEET THROUGH A CENTRAL ANGLE OF 33 DEGREES 33' 26" AN ARC LENGTH OF 8.79 FEET TO A POINT OF COMPOUND CURVE; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 300.00 FEET THROUGH A CENTRAL ANGLE OF 45 DEGREES 16' 05" AN ARC LENGTH OF 237.02 FEET TO A POINT OF COMPOUND CURVE; THENCE NORTHERLY ALONG A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 580.10 FEET THROUGH

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A CENTRAL ANGLE OF 20 DEGREES 43' 55" AN ARC LENGTH OF 209.90 FEET;
THENCE NORTH 0 DEGREES 00' 35" WEST, 170.00 FEET TO THE BEGINNING OF
A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 50.00 FEET;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48
DEGREES 41' 05" AN ARC LENGTH OF 42.49 FEET TO THE TRUE POINT OF
BEGINNING.

EXCEPT THEREFROM ALL MINERALS AND MINERAL RIGHTS OF EVERY KIND
OR NATURE LYING BELOW THE SURFACE OF SAID AREA, AND EXCEPT
THEREFROM ALL RIGHTS TO THE SUBSURFACE OF SAID LAND AND WATER
AREA MORE THAN ONE HUNDRED (100) FEET BELOW GROUND LEVEL OR
WATER SURFACE LEVEL, OTHER THAN THE RIGHT TO DRIVE PILES TO A
DEPTH GREATER THAN ONE HUNDRED (100) FEET, AS RESERVED IN THE
LEASE DATED MAY 6, 1981, EXECUTED BY THE CITY OF LONG BEACH, AS
LESSOR AND CROWLEY DEVELOPMENT CORPORATION, LESSEE, A SHORT
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WATER AREAS DESCRIBED WITHIN ONE HUNDRED (100) FEET BELOW
GROUND LEVEL OR WATER SURFACE LEVEL OF SAID PREMISES FOR THE
PURPOSE OF MINERAL EXPLORATION OR DEVELOPMENT.

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