

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 4-17-06 meeting.

CALENDAR ITEM
C21

A	41	04/17/06
		AD 163
S	23	C. Connor
		C. Fossum

AMENDMENT TO AGREEMENT CONFIRMING OWNERSHIP AND CONTROL OF TIDE AND SUBMERGED LANDS AT SANTA MONICA STATE BEACH

PARTIES:

State of California
Department of Parks and Recreation
Concessions and Reservations Division
Attn: Catherine Hurd
1416 9TH Street, Room 1442-13
Sacramento, California 95814

State of California
State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825-8202

AREA, LAND TYPE, AND LOCATION:

Certain tide and submerged land located in the City of Santa Monica, Los Angeles County and described in Exhibit A hereafter.

AUTHORIZED USE:

Continued use of public beach, public parking lot, walkways, and reconstruction of existing concession building (public café) and public restroom facility operated as part of the adjacent Marion Davies Beach House renovation and adaptive re-use project.

TERM:

60 years beginning October 25, 1991 to October 24, 2051.

PROPOSED AMENDMENT:

Extend the term of the agreement to October 24, 2105 as to a 3.43-acre portion of the tide and submerged lands described in Exhibit A and shown on Exhibit B. All other terms of the agreement will remain in effect without amendment.

CALENDAR ITEM NO. C21 (CONT'D)

BACKGROUND:

In July 1991, the California Attorney General, the California State Lands Commission (CSLC), the California Department of Parks and Recreation (DPR) and the City of Santa Monica (City) entered into a boundary line agreement and an agreement confirming ownership and control of the filled and unfilled tide and submerged land in the city of Santa Monica. These agreements, CSLC file numbers AD 163 and BLA 265, provided for the following:

- (A) The permanent location of ordinary high water mark (OHWM) boundary between the filled tidelands and City and DPR upland property;
- (B) Confirmed that the State holds the right, title and interest in the tide and submerged lands, being the filled tidelands located seaward of the agreed boundary line, as well as all unfilled tidelands within the City;
- (C) Confirmed title to unfilled submerged lands within the City, as Trustee of the Legislatively granted tide and submerged land pursuant to Chapter 78, Statutes of 1917, as amended, and confirmed the City's rights and interests, as Trustee, reserved in a 1949 deed between the City and DPR (including the land beneath the pier);
- (D) The parties agreed for a period of 60 years, that DPR would continue to exercise jurisdiction over the tide and submerged land, as trustee. At the conclusion of the 60-year period, jurisdiction would revert to CSLC;
- (E) The tide and submerged lands in the agreement remains subject to the public trust;
- (F) Acknowledged the 1981 operating agreement between DPR and the City;
- (G) The CSLC transfer of certain leases by private parties, which were obtained in the settlement of litigation, to DPR.

OTHER PERTINENT INFORMATION:

1. The proposed amendment to the 1991 agreement involves an extension of the period of DPR control over a 3.43± acre area of filled tide and submerged land located adjacent to, and waterward of, 415 Palisades Beach Road, the historic Marion Davies Beach House.
2. In 2005, the Annenberg Foundation provided a grant of \$21 million to the City for the renovation and adaptive re-use of the historic Marion Davies Beach House as a community facility to be open to the public. The Beach House improvements are situated on Assessor Parcel Number 4293-017-901, which is owned by DPR, but operated by the City under a new long-term operating agreement. The facility also includes a parking lot, concession building and public restroom facility that are situated on the

CALENDAR ITEM NO. C21 (CONT'D)

adjoining beach, which is located in the tide and submerged lands subject to the 1991 agreement and is the subject of this amendment.

3. The grant from the Annenberg Foundation is intended to provide for the long-term development and operation of the property as envisioned by the new operating agreement between the City and DPR. This agreement commenced on April 1, 2005, and runs for an initial term of 50 years with an option for an additional 50 years.

Part of the grant money will be spent on the concession building and public restroom facility situated on the tide and submerged lands. A condition of the Annenberg Foundation grant is that the City's jurisdiction over that portion of the tide and submerged lands with the concession building and public restroom facility be of a term "...not less than the term of the New Operating Agreement (including all renewal and extension options)..." At present, there are approximately 45 years remaining on Parks' jurisdiction over the adjoining beach before it reverts to the jurisdiction of the CSLC. This period does not match the 100-year term (including option period) of the new operating agreement between the City and DPR, upon which the Annenberg Foundation grant is predicated.

4. In order to meet this condition of the Annenberg Foundation's grant, DPR has requested an extension of its jurisdiction over that portion of Santa Monica beach containing the concession building and public restroom facility.
5. 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 the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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

6. 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.

CALENDAR ITEM NO. C21 (CONT'D)

EXHIBITS:

- A. Legal Description – Existing Agreement
- B. Legal Description – Amendment to Agreement
- C. Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS NOT SUBJECT TO 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.

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.

AUTHORIZATION:

APPROVE THE EXECUTION OF AN AMENDMENT TO THE AGREEMENT CONFIRMING OWNERSHIP AND CONTROL AT SANTA MONICA STATE BEACH, EXTENDING THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION'S JURISDICTION OVER A 3.43-ACRE PORTION OF THE TIDE AND SUBMERGED LANDS AS DESCRIBED IN EXHIBIT B AND SHOWN ON EXHIBIT C, WHICH BY REFERENCE ARE MADE PART HEREOF, AND TO EXTEND THE TERM OF THE AGREEMENT TO OCTOBER 24, 2106, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT WILL REMAIN IN EFFECT WITHOUT CHANGE.

EXHIBIT "A"

LAND DESCRIPTION

That agreed ordinary high water mark in the City of Santa Monica, County of Los Angeles, State of California, described as follows:

COMMENCING at a point in the southwesterly line of the 20 foot strip of land conveyed to the City of Santa Monica, for street purposes, by deed recorded in Book 4530, page 152 of Deeds, Records of said County distant northwesterly along said southwesterly line, 2519.37 feet from its intersection with the southwesterly prolongation of the northwesterly line of Montana Avenue, as per map of the City of Santa Monica, recorded in Book 39, pages 50 and 51, Miscellaneous Records of said County; said point of commencement being the most easterly corner of Parcel 3 described in the deed from the Beach Club Holding Company to the Beach Club, recorded December 10, 1936 in Book 14556, Page 343 of Official Records of said County; thence southwesterly at right angles to said southwesterly line, along the southeasterly line of said Parcel 3, 190 feet to the line described as "1921 Mean High Tide Line Retraced 1978", as shown on that Record of Survey filed January 3, 1980, in Book 90 of Records of Surveys, page 39, records of said county; thence along said 1921 mean high tide line, N 58° 26' 22" W 405.33 feet, more or less, to the intersection with the northwest city limit of the City of Santa Monica as described in Volume 5, page 150 of Minutes of the Board of Trustees of the City of Santa Monica and the POINT OF BEGINNING of this description; thence continuing along said 1921 mean high tide line and the ordinary high water mark S 58° 26' 22" E 48.83 feet to Monument No. 1; thence S 58° 26' 22" E, 500.13 feet to Monument No. 2; thence S 58° 26' 22" E, 448.06 feet to a point that bears N 31° 33' 38" E, 10.00 feet from Monument No. 3; thence along a tangent curve concaved to the southwest, having a radius of 5488.10 feet, through a central angle of 11° 47' 45", an arc length of 1129.87 feet; thence S 46° 38' 37" E 1385.65 feet to Monument No. 7; thence S 47° 30' 09" E, 498.31 feet to Monument No. 8; thence S 45° 48' 34" E, 485.83 feet to Monument No. 9; thence S 45° 49' 39" E, 400.99 feet to Monument No. 10; thence S 44° 04' 35" E 64.22 feet; thence leaving said 1921 Mean High Tide Line Retraced 1978, N 45° 43' 33" E, 78.78 feet to the southwesterly corner of The Promenade at its northwest end; said point also bears S 45° 43' 33" W, 10.00 feet from a tack in lead in the centerline of The Promenade; thence continuing along the agreed ordinary high water mark 10.00 feet seaward and parallel with the following described centerline of The Promenade the following courses on those certain maps entitled "1975 Adjustment" Nos. 3403B, 3403A, 3402B, 3402A and 3401B on file in the City of Santa Monica City Engineers Office:

1. S 44° 16' 27" E, 757.59 feet to a tack in lead;
2. S 44° 40' 55" E, 341.43 feet to a tack in lead;
3. S 53° 52' 30" E, 101.22 feet to a tack in lead;
4. S 42° 26' 18" E, 1197.27 feet to a spike;

5. S 41° 48' 38" E, 1041.38 feet to a tack in lead in the intersection of The Promenade and Colorado Avenue;
6. N 45° 50' 45" E, 3.79 feet to a tack in lead in the intersection of The Promenade and Colorado Avenue;
7. S 41° 03' 35" E, 1907.65 feet to a manhole ring;
8. S 37° 41' 33" E, 35.47 feet to a spike in the intersection of The Promenade and Pico Boulevard;
9. S 37° 41' 33" E, 374.06 feet to a spike in the intersection of The Promenade and Bay Street;
10. S 39° 25' 20" E, 1210.04 feet to a tack in lead;
11. S 38° 05' 31" E, 134.69 feet to a spike in the intersection of The Promenade and Hollister Avenue;
12. S 38° 05' 31" E, 25.00 feet to a spike;
13. S 38° 03' 48" E, 249.91 feet to a spike 20.00 feet southerly of the centerline of Wadsworth Avenue;
14. S 39° 55' 51" E, 127.20 feet to a spike 114.04 feet northerly of the centerline of Hart Avenue;
15. S 38° 02' 46" E, 800.59 feet to a spike in the intersection of The Promenade and Grand Avenue;
16. S 38° 08' 31" E 820.49 feet to a spike 20.02 feet southerly of the centerline of Raymond Avenue;
17. S 39° 39' 06" E 725.92 feet to a spike in the intersection of The Promenade and Pier Avenue;
18. S 39° 39' 06" E, 25.02 feet to a spike;
19. S 36° 46' 35" E, 230.95 feet more or less to the southerly city limit of the City of Santa Monica as established by Ordinance No. 124838 of the City of Los Angeles, and by Resolution 2999 of the City of Santa Monica, and the end of the herein described line.

The Basis of Bearing for this description is that course N 88° 26' 22" W along the centerline of Palisades Beach Road between the northwest City Limit of the City of Santa Monica and point BB as shown on that certain map entitled "1975 Adjustment" No. 3504A on file in the City of Santa Monica City Engineer's Office.

END OF DESCRIPTION

PREPARED FEBRUARY 7, 1989 BY BIU 1.

Land Description-Los Angeles County

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CALENDAR PAGE

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MINUTE PAGE

Exhibit "B"

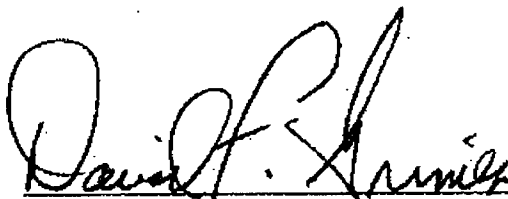
LAND DESCRIPTION

AD163

A PARCEL OF FILLED TIDE AND SUBMERGED LAND SITUATED, IN THE CITY OF SANTA MONICA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND BRASS CAP MONUMENT SHOWN AS "MONUMENT NO. 2" ON THE 1921 MEAN HIGH TIDE LINE AS ESTABLISHED ON RECORD OF SURVEY RECORDED IN BOOK 90 PAGES 38-46 INCLUSIVE OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE SOUTH 58°15'01" EAST 211.57 FEET ALONG SAID 1921 MEAN HIGH TIDE LINE TO THE MOST SOUTHERLY CORNER OF TRACT NO. 47281 RECORDED IN BOOK 1195, PAGES 63 AND 64 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID SOUTHERLY CORNER IS THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG SAID 1921 MEAN HIGH TIDE LINE SOUTH 58°15'01" EAST 233.71 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 5488.10 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE 499.00 FEET; THENCE LEAVING SAID 1921 MEAN HIGH TIDE LINE SOUTH 36°56'58" WEST 189.39 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 352.96 FEET, A RADIAL BEARING TO SAID CURVE IS NORTH 54°04'57" EAST; THENCE NORTHWESTERLY 179.12 FEET ALONG SAID CURVE; THENCE NORTH 64°59'35" WEST 365.13 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1785.19 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE 177.18 FEET; THENCE NORTH 31°44'59" EAST, 242.17 FEET TO THE TRUE POINT OF BEGINNING.

END OF DESCRIPTION


DAVID F. GRIMES, L.S. NO. 3774

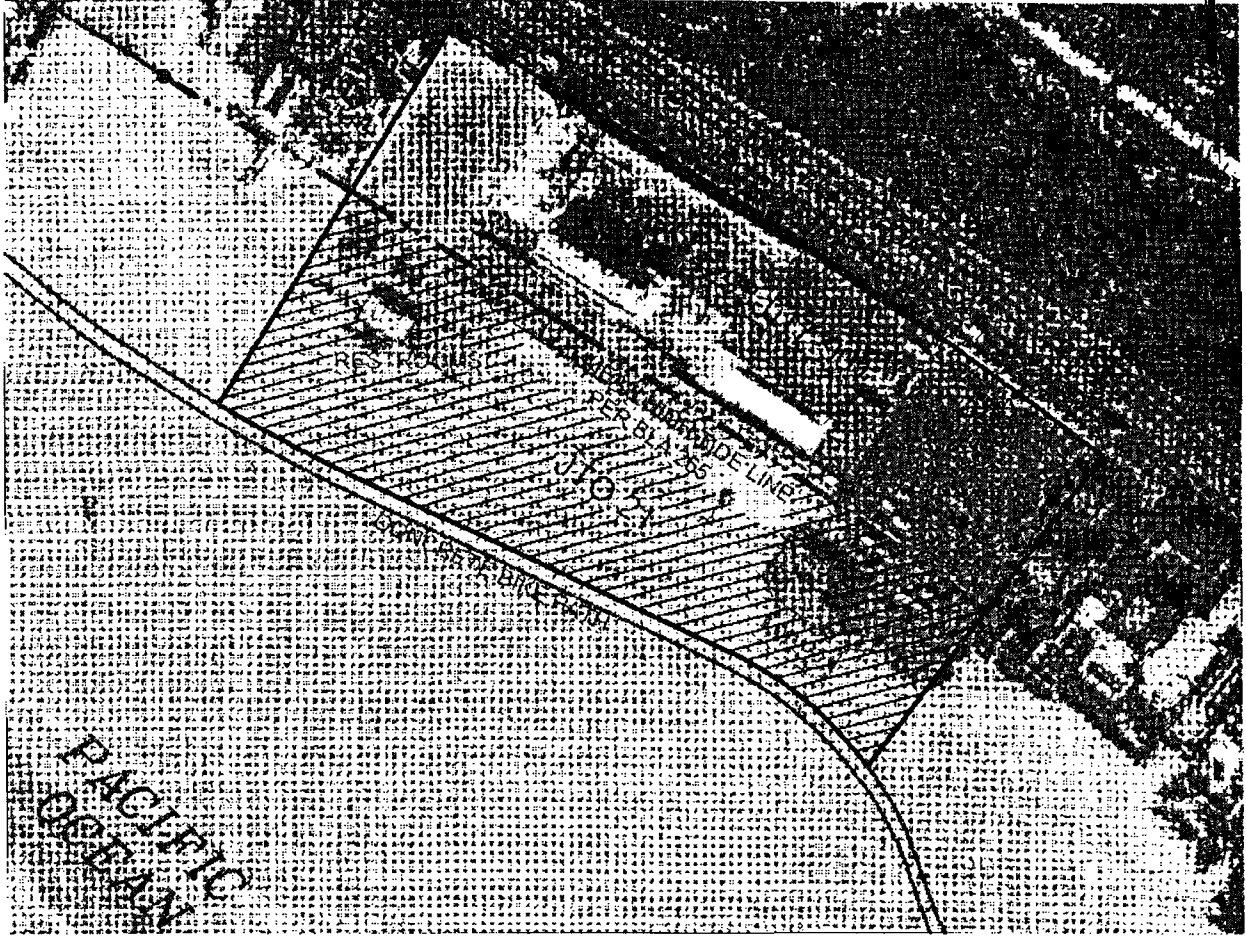


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CALENDAR PAGE

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MINUTE PAGE

NO SCALE

SITE



415 PALISADES BEACH ROAD (PCH), SANTA MONICA, CA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit C

AD 163
C.S.L.C. TO
STATE PARKS AND REC.
SANTA MONICA
LOS ANGELES COUNTY



MIF 3/13/2006

This Exhibit is solely for purposes of generally defining the transfer premises, is based on unverified information provided by the Applicant 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.