

MINUTE ITEM

This Calendar Item No. C41
was approved as Minute Item
No. 41 by the State Lands
Commission by a vote of 3
to 0 at its 9/23/92
meeting.

CALENDAR ITEM

C 4 I

A 28

S 17

09/23/92
G 08-02.1
D. Jones

DETERMINATIONS CONCERNING AMENDING A LEASE
BETWEEN CITY OF MONTEREY, AS LESSOR,
AND MONTEREY BAY AQUARIUM FOUNDATION, AS LESSEE

LESSOR (GRANTEE):

City of Monterey
City Hall
Monterey, California 93940

LESSEE (OF GRANTEE):

Monterey Bay Aquarium Foundation,
a California nonprofit corporation (Aquarium)
886 Cannery Row
Monterey, California 93940

AREA, TYPE LAND AND LOCATION:

A parcel of approximately two acres of tidelands and submerged lands granted to the City of Monterey located on Cannery Row, Monterey County (see Site Map Exhibit "A" attached). The precise location of the ordinary high water mark in this area has not been determined and will not be established by this lease.

LAND USE:

The subject tidelands and submerged lands have been used in conjunction with the construction and operation of the Aquarium since 1981. Prior to that time, the site was occupied by the dilapidated remains of the old Hovden Cannery, which, because of its dangerous conditions, inhibited public access to and enjoyment of the tidelands in the area. The Aquarium was designed to preserve the architectural exterior of the old cannery and the historical appearance of this part of Cannery Row. The Aquarium is open to the public, subject to an entry fee, and provides educational and recreational opportunities, as well as facilities for scientific research in marine biology.

CALENDAR ITEM NO. 41 (CONT'D)

Aquarium walkways extend over the tidelands for a close-up look at tide pools and nearby wildlife. The Lessee has provided a free public walkway from Cannery Row to the tidelands, adjacent to the Aquarium.

The Aquarium proposes to amend its tidelands lease with the City for the purpose of adding a new exhibit wing, totalling approximately 86,500 square feet, to the Aquarium. The new exhibit wing will contain the nation's first open sea tank and deep sea exhibits, as well as research and exhibit galleries. It will also include an outdoor deck system and bleachers providing additional public access to the Bay. According to the draft EIR prepared for the new wing, "the proposed New Exhibit Wing and associated features are designed to carry out the mission of the Foundation 'to promote awareness, knowledge and stewardship of Monterey Bay and the ocean environment'".

TERMS OF LEASE:

Duration:

Fifty (50) years beginning March 10, 1981, as amended March 19, 1986.

CONSIDERATION:

Lessee pays one dollar (\$1) per year in rent and provides substantial public benefit in the form of educational and recreational opportunities, facilities for scientific research in marine biology, and public access to the granted lands. Lessee is a California non-profit corporation and revenues are returned to the Aquarium. The lease provides for a five-year rent review.

ENVIRONMENTAL IMPACT OF THE LEASE

On April 14, 1992, the City of Monterey Planning Commission certified the EIR which had been prepared for the project, found that all significant impacts identified in the EIR had been satisfactorily mitigated by conditions of approval of the project, and found that the project is in conformance with the City's General Plan, zoning regulations, and the adopted Cannery Row Land Use Plan of the Local Coastal Plan. The Monterey city council accepted the certification at its meeting on April 21, 1992.

CONFORMANCE WITH GRANTING STATUTES

Legislative Acts relating to the leased lands include:

<u>Chapter</u>	<u>Year</u>
210	1868
237	1903
669	1919
734	1984

Staff of the Commission have reviewed the subject lease and have found it to be in accordance with the terms and conditions of the granting statutes.

DISPOSITION OF LEASE PROCEEDS

Staff of the City have assured Commission staff that all revenues derived by the City from the lease will be deposited in a tidelands Trust Fund, and will be expended for the maintenance, improvement, and benefit of the tidelands and submerged lands granted to the City of Monterey.

STATEWIDE PUBLIC BENEFIT

As described above, the proposed use of the subject granted lands and the adjacent uplands for the Aquarium provides the general public with unique educational and recreational opportunities, and enhances access to and use of the granted lands by the general public.

AB 884:
N/A.

EXHIBIT:

A. Location Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE CITY OF MONTEREY, AS LEAD AGENCY FOR THE AQUARIUM PROJECT UNDER CEQA, HAS PREPARED AND CERTIFIED AN EIR FOR THE PROJECT AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION THEREIN.
2. ADOPT, IN CONFORMANCE WITH SECTION 15096(h) OF THE STATE CEQA GUIDELINES, THE FINAL FINDINGS ADOPTED BY THE CITY OF MONTEREY, AS THE CEQA LEAD AGENCY, ON APRIL 14 AND APRIL 21, 1992.

CALENDAR ITEM NO C 4 1 (CONT'D)

3. MAKE THE FOLLOWING DETERMINATIONS, PURSUANT TO SECTION 6702 OF THE P.R.C., AS TO THE LEASE BETWEEN THE CITY OF MONTEREY, AS LESSOR, AND THE MONTEREY BAY AQUARIUM FOUNDATION:
 - (a) THAT SAID LEASE IS IN ACCORDANCE WITH THE TERMS OF THE GRANTS UNDER WHICH TITLE TO THE TIDELANDS AND SUBMERGED LANDS IN QUESTION IS HELD BY THE CITY OF MONTEREY.
 - (b) THAT ALL REVENUES DERIVED FROM THE LEASE SHALL BE DEPOSITED IN A TRUST FUND EXPENDABLE ONLY FOR STATEWIDE PUBLIC PURPOSES AUTHORIZED BY THE GRANTING STATUTES.
 - (c) THAT SAID LEASE IS IN THE BEST INTEREST OF THE STATE.
4. FIND THAT THE LEASE AREA MAY EXCEED 300 FEET FRONTAGE OF TIDELANDS AND SUBMERGED LANDS PURSUANT TO CHAPTER 734, STATUTES OF 1984.
5. AUTHORIZE THE STAFF AND/OR THE ATTORNEY GENERAL TO TAKE ALL ACTIONS NECESSARY TO COMPLETE THIS APPROVAL.

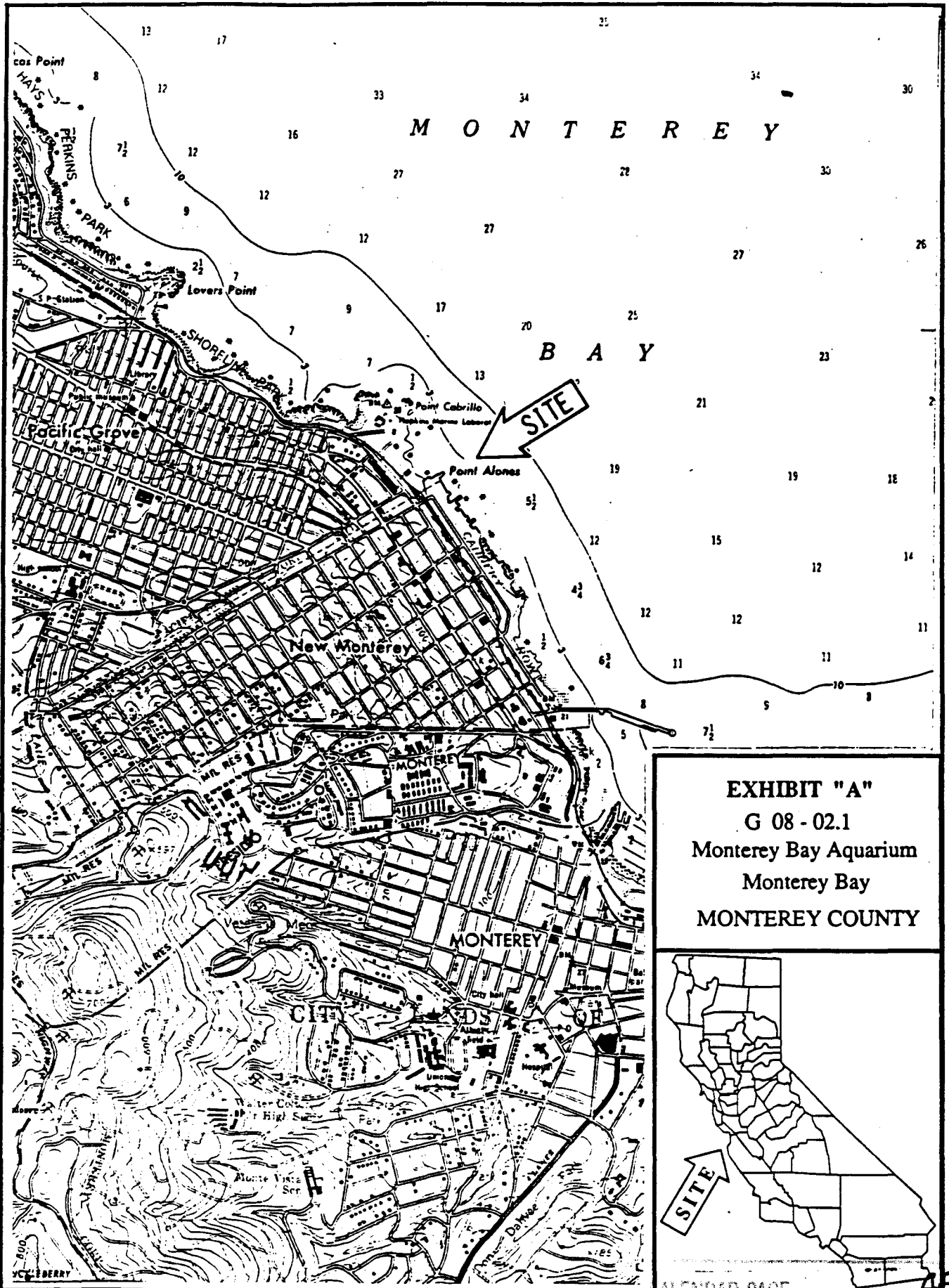


EXHIBIT "A"
G 08 - 02.1
Monterey Bay Aquarium
Monterey Bay
MONTEREY COUNTY

