

**CALENDAR ITEM  
C39**

A 72  
S 34

12/17/14  
PRC 5745.1  
A. Franzoia

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANTS:**

Kenneth D. Wolder and Leslie A. Wolder, Trustees of the Wolder Family Trust

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in the Main Channel of Huntington Harbour, adjacent to 16752 Coral Cay Lane, Huntington Beach, Orange County.

**AUTHORIZED USE:**

Continued use and maintenance of a boat dock, access ramp, and cantilevered deck.

**LEASE TERM:**

10 years, beginning December 17, 2014.

**CONSIDERATION:**

\$2,205 per year, with an annual Consumer Price Index adjustment.

**SPECIFIC LEASE PROVISIONS:**

**Insurance:** Liability insurance in an amount no less than \$1,000,000 per occurrence.

**Other:** No permanent roof or other enclosure will be constructed on the Lease Premises. Applicant agrees 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.
2. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1962 as a result of a land exchange entered into between the Commission and the Huntington Harbour Corporation, recorded as the Amended Agreement for the Exchange of

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Lands in the Sunset Beach Area, Orange County, California, and recorded on March 7, 1963, in Book 6457, Page 819, 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. The Commission first authorized the issuance of Lease No. PRC 5745.9 on October 29, 1979, for the use of State land for proposed improvements adjacent to 16752 Coral Cay Lane. On October 26, 2009, the Commission authorized issuance of a new General Lease – Recreational Use to Stuart and Mary Makler, then-owners of the upland property, for an existing boat dock, access ramp, and cantilevered deck. The Maklers subsequently sold the upland property to Melton Bacon in August 2010. Mr. Bacon, the Wolder Family Trust's predecessor in interest, refused to come under lease despite multiple attempts by Commission staff.
4. In September 2012, the City of Huntington Beach issued a stop work order on the dock adjacent to the upland property when Mr. Bacon was discovered making modifications to the dock without a city building permit or lease from the Commission.
5. On October 12, 2012, Mr. Bacon filed suit against the Commission claiming property rights in the Main Channel and that the Commission could not charge rent for the structures on state land.
6. On May 22, 2014, Commission staff and Mr. Bacon reached a tentative settlement agreement where Mr. Bacon would submit lease applications for the area adjacent to the Coral Cay property, and for another property he owns in Huntington Harbour that was included in the same suit and settlement agreement, but is otherwise unrelated to this property. The Commission authorized this settlement agreement at a regularly noticed public meeting on June 19, 2014.
7. Pursuant to the settlement agreement, Mr. Bacon submitted both applications, but subsequently sold the upland property on Coral Cay Lane to the Wolder Family Trust before staff was able to present the associated application to the Commission for consideration. Mr. Bacon's application for this upland property has been terminated, and the Applicants have applied for a new lease. Staff recommends authorization of a new lease to the Applicants.

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8. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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.

9. 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. Site and Location 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 Kenneth D. Wolder and Leslie A. Wolder, Trustees of the Wolder Family Trust, beginning December 17, 2014, for a term of 10 years, for a boat dock, access ramp, and cantilevered deck as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$2,205 with an

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annual Consumer Price Index adjustment; and liability insurance in an amount of no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5745.1

LAND DESCRIPTION

A parcel of submerged land situate in Huntington Harbour, in the City of Huntington Beach, Orange County, State of California, described as follows:

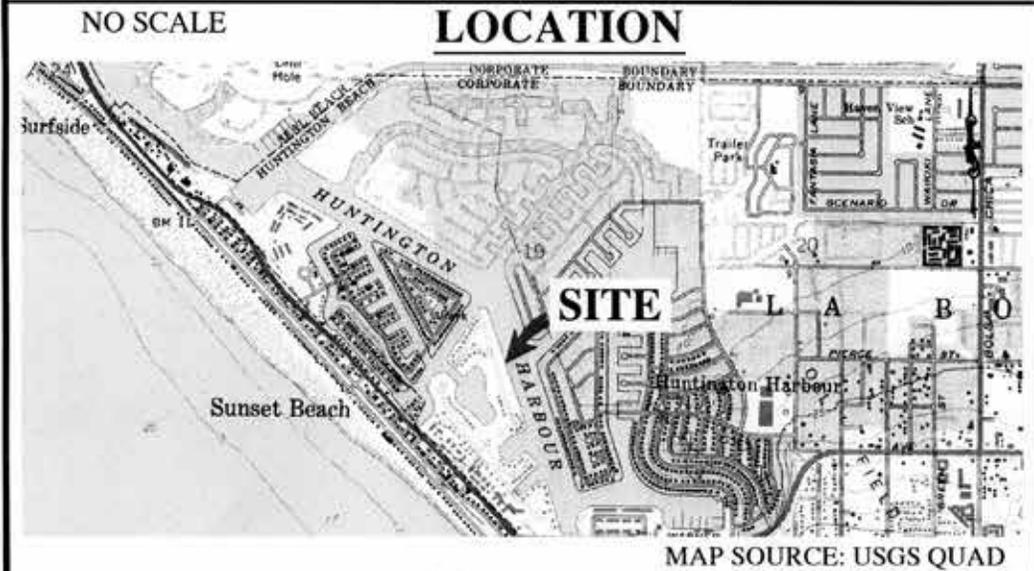
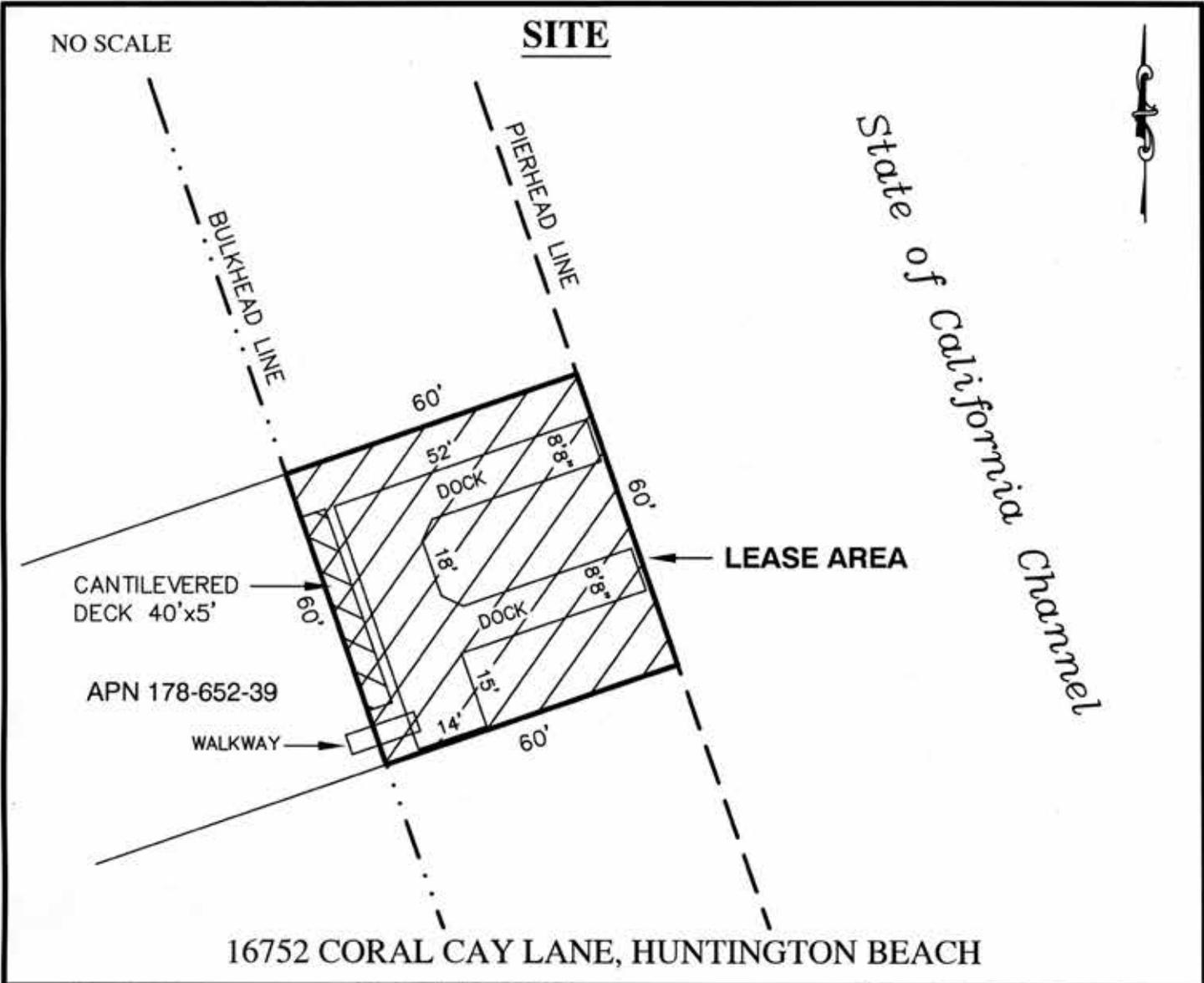
BEGINNING at the most easterly corner of Lot 45, as said lot is shown and designated on that certain map of Tract No. 8040 filed November 22, 1974, in Book 350, Pages 27 through 37, Official Records of said County; thence along the easterly prolongation of the southerly line of said lot 60.00 feet to the pierhead line, as said pierhead line is described in Resolution No. 5197, passed and adopted December 6, 1982 by the City Council of said City; thence northerly along said pierhead line 60.00 feet to the easterly prolongation of the northerly line of said lot; thence westerly along said prolongation 60.00 feet to the most northerly corner of said lot; thence southerly along the easterly line of said lot 60.00 feet to the POINT OF BEGINNING.

END OF DESCRIPTION

Prepared 1/11/2010 by the California State Lands Commission Boundary Unit



A handwritten signature in black ink, appearing to read "Michael J. Bell", written over the bottom portion of the seal.



**Exhibit B**  
 PRC 5745.1  
 WOLDER FAMILY TRUST  
 APN 178-652-39  
 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.