

MINUTE ITEM

This Calendar Item No. C20
was approved as Minute Item
No. 20 by the State Lands
Commission by a vote of 3
to 0 at its 2-25-93
meeting.

CALENDAR ITEM

C20

A 10

S 6

02/25/93
PRC 6427
Simmons
Fong

CONSIDERATION OF AGREEMENT
AMENDING COMMERCIAL LEASE TO SETTLE RENTAL AMOUNTS
DUE THEREUNDER, SET PAYMENT PLAN WITH STIPULATIONS
AND AUTHORIZE COMPROMISE INTEREST RATE

PARTY:

Riverbank Holding Company
1361 Garden Highway
Sacramento, CA 95833

AREA, TYPE LAND AND LOCATION:

A 5.326-acre parcel of tide and submerged land in the
Sacramento River, Sacramento County.

LAND USE:

Commercial marina, floating restaurant, harbormaster office,
boat sales office, debris deflector, and all appurtenant
facilities related thereto.

CURRENT LEASE TERMS:

Lease period:

Twenty (20) years beginning August 1, 1984.

Surety bond:

\$10,000.

Public liability insurance:

Combined single limit coverage of \$1,000,000.

Consideration:

Six percent (6%) of the gross income derived from the
rental of boat docks and moorings; three percent (3%)
of the gross income derived from the operation of
restaurant and bar; twenty-five percent (25%) of the
gross income derived from the operation of coin-
operated vending and electronic game machines; a
percentage of the gross income derived from boat sales
(yacht brokerage); ten percent (10%) of the gross

income derived from sources exclusive of those described above; a minimum annual rental of \$4,000 for the period August 1, 1984 through July 31, 1985 and a minimum annual rental of \$15,000 thereafter. per annum; five-year rent review.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:

N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

2. The staff has been working with Riverbank Holding Company to resolve rental defaults for the 1987-1992 rental years ending July 31, 1992 and the minimum annual rent in the amount of \$15,000 for 1992-93 due on August 1, 1992. The amount of the rental arrearage including interest and penalty is \$132,272.75 as of February 4, 1993. Staff has proposed a settlement whereby Riverbank will pay, in two installments, the debt down to \$50,000, and the State will agree to a payment plan whereby Riverbank will pay off the balance of the backrent, penalty and interest, plus interest at the Surplus Money Investment Fund (SMIF) semi-annual rate, in monthly payments of \$1,000. At the current SMIF interest rate, repayment of the \$50,000 debt plus interest will be complete on October, 1997.

In accordance with the proposed settlement, Riverbank has paid \$82,526.45. In view of the good faith effort that Riverbank is making to resolve the rental default, staff recommends that the Commission accept the backrent payment and approve the amendment providing for the payment plan.

EXHIBITS:

- A. Location Map
- B. Lease Amendment

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. APPROVE STAFF ACTION IN THE COLLECTION OF \$82,526.45 FROM RIVERBANK HOLDING COMPANY IN PARTIAL SETTLEMENT OF THE BACKRENT, INTEREST AND PENALTY IN THE AMOUNT OF \$132,272.75.

APPROVAL AN AMENDMENT TO COMMERCIAL LEASE PRC 6427 FOR A PAYMENT PLAN IN THE SETTLEMENT OF RENTAL ARREARAGE FOR THE 1987-1992 RENTAL YEARS ENDING JULY 31, 1992 AND FOR THE MINIMUM ANNUAL RENT OF \$15,000 DUE ON AUGUST 1, 1992. PURSUANT TO THE LEASE AMENDMENT, ATTACHED HERETO AND HEREBY INCORPORATED BY REFERENCE. INTEREST TO BE CHARGED AGAINST THE UNPAID BALANCE SHALL BE AT THE STATE SURPLUS MONEY INVESTMENT FUND SEMI-ANNUAL RATE. ALL OTHER TERMS AND CONDITIONS OF THE LEASE REMAIN IN FULL FORCE AND EFFECT.

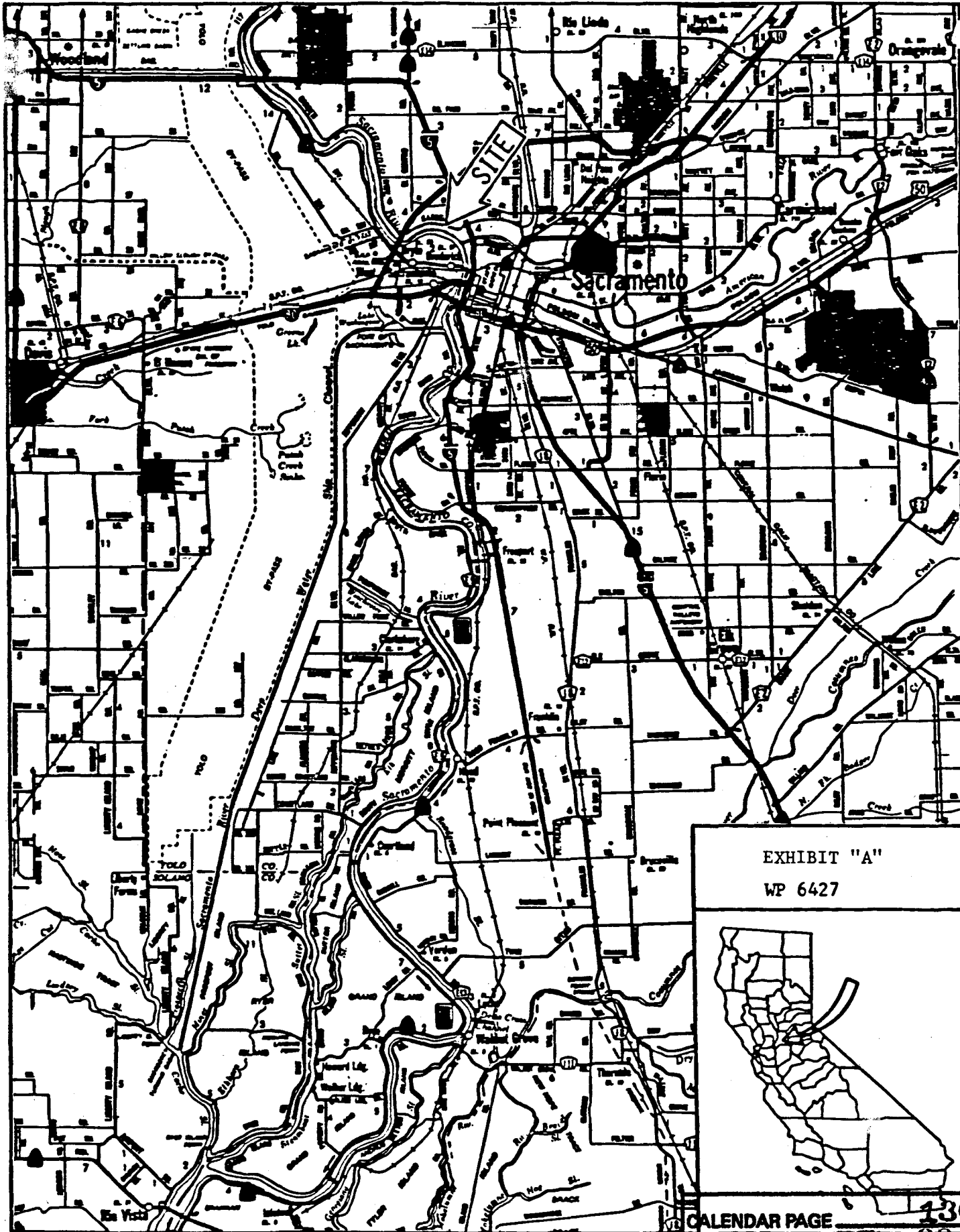


EXHIBIT "A"
WP 6427



STATE OF CALIFORNIA
STATE LANDS COMMISSION

AMENDMENT OF LEASE PRC 6427.1

WHEREAS, the State of California, acting through the State Lands Commission, hereinafter called Lessor, and Riverbank Holding Company, hereinafter called the Lessee, have heretofore entered into a lease agreement designated as Lease PRC 6427.1 with a beginning date of August 1, 1984, whereby Lessor granted to Lessee a General Lease - Commercial Use covering certain tide and submerged lands situate in Sacramento County; and

WHEREAS, Paragraph 16(e) of Lease PRC 6427.1 provides that said Lease may also be changed, altered or amended by mutual consent of the parties; and

WHEREAS, due to non-payment of rents for the rent periods from 1987 through 1992, Lessee is in default of Lease PRC 6427.1; and

WHEREAS, Lessee and Lessor have reached an agreement as to settlement of the past due rents, interest and penalty amounts; and

WHEREAS, by reason of the foregoing, it is now the desire of the parties to amend the foregoing Lease PRC 6427.1.

NOW THEREFORE, the parties hereto agree as follows:

1. This agreement supersedes all other agreements concerning past due rent.
2. The amount of all past due rent, interest and penalty due to Lessor as of February 4, 1993 is \$132,272.75.
3. Lessor then received from Lessee a check for \$40,809.54 on February 4, 1993 as partial payment of the past due rent.
4. Interest due to Lessor for the period February 4, 1993 to February 25, 1993 is \$253.69.
5. Lessee shall pay Lessor the sum of \$41,716.91 in the form of a certified check as partial payment of past due rent before February 25, 1993.
6. Lessee shall pay the balance of the past due rent, interest and penalty in the amount of \$50,000, hereinafter "PRINCIPAL", plus interest at the Surplus Money Investment Fund semi-annual rate, hereinafter "INTEREST" in monthly payments of \$1,000, without the necessity of rental invoices, payable on the first day of every month, beginning

March 1, 1993, and continuing each month thereafter until its debt is extinguished.

- 7. Payments on the PRINCIPAL will be applied first to any outstanding interest and penalty and then to past due rent.
- 8. Any part of the unpaid PRINCIPAL may be paid at any time without penalty.
- 9. PRINCIPAL and INTEREST payments shall be made on or before the dates of payment stated herein. Should default occur in the payment or any installment of the PRINCIPAL or INTEREST when due, then, or at any time during such default, the entire amount of the unpaid PRINCIPAL and INTEREST shall become immediately due and payable upon notice to Riverbank Marina.
- 10. In the event the Marina is sold or refinanced prior to full payment under this payment plan, all unpaid past due rent, and any unpaid interest and penalties, will be paid from proceeds of the sale or refinance.
- 11. The payments described in Paragraph 4 above are separate from and in addition to Lessee's obligation to pay rental due beginning August 2, 1992 pursuant to the terms of Section 2 of Lease PRC 6427.1, as interpreted in that Stipulation dated February 11, 1987, and will not offset any amounts due under said Section 2.
- 12. The effective date of this Amendment to the aforesaid Lease PRC 6427.1 shall be February 26, 1993.
- 13. This Amendment will become binding on Lessor only when duly executed on behalf of the State Lands Commission of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date hereafter affixed.

LESSEE:

STATE OF CALIFORNIA
STATE LANDS COMMISSION

By _____

By _____

Title _____

Title _____

Date _____

Execution of this document was authorized by the State Lands Commission on _____