

**CALENDAR ITEM**

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PRC 6427.1

V. Caldwell

**AMENDMENT OF LEASE**

**LESSEE:**

Riverbank Holding Company, LLC  
P.O. Box 340658  
Sacramento, California 95834-0658

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

Five acres, more or less, of sovereign lands in the Sacramento River, adjacent to 1371 Garden Highway, city of Sacramento, Sacramento County.

**EXISTING AUTHORIZED USE:**

Continued use and maintenance of an existing commercial marina consisting of approximately 159 individual berths; outside side-tie docks measuring 236 feet for A Dock, 200 feet for B Dock, 290 feet for C Dock, and 512 feet for D Dock, with all outside docks accommodating approximately 19 boats in total, an inside side-tie dock fronting F and G Docks accommodating approximately nine boats; a sewage pumpout dock; debris deflector; two speed signs; a restaurant with an accommodation dock measuring 152 feet; and two floating offices.

**LEASE TERM:**

25 years, beginning September 1, 2002.

**EXISTING CONSIDERATION:**

Minimum annual rent in the amount of \$60,484, paid quarterly, against the following percentages of gross receipts: Six percent of gross income derived from the berthing, docking, and mooring of boats; one and one-half percent of gross receipts from the operation of the restaurant and bar; 0.5 percent of the total sales price derived from boat sales and servicing of new and used yachts, boats, personal watercraft, and related equipment by Lessee or Sublessees of Lessee regularly engaged in the business of selling boats on or by consignment; 25 percent of gross income generated from coin-operated vending and electronic game machines; and 10 percent of all other gross income generated on the Lease Premises.

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**PROPOSED AMENDMENT:**

Amend the lease as follows:

1. The "Land Use or Purpose" in Section 1 of the Lease is revised to include a marine fuel dispenser located on the pump out dock with one diesel fuel dispensing line and one gas dispensing line consisting of two-inch welded steel fuel pipes running under an existing walking platform and including a containment sump at the dispenser base and a hose reel.
2. The "Authorized Improvements" in Section 1 of the Lease is deleted in its entirety and replaced with: A commercial marina consisting of 132 covered berths of various lengths, 25 uncovered berths of various lengths, outside side-tie docks measuring 236 feet for Dock A, 200 feet for Dock B, 290 feet for Dock C, and 512 feet for Dock D, with all outside docks accommodating approximately 19 boats in total, and an inside side-tie dock fronting F and G Docks accommodating approximately nine boats; a sewage pumpout, debris deflector; two speed signs; a restaurant with an accommodation dock measuring 152 feet; two floating offices; two security vessels; and one diesel dispensing line, one regular gas dispensing line, and one marine fuel dispenser with hose reel.
3. Add the provision "To be Constructed" to Section 1 of the Lease to include the construction of a marine fuel dispenser located on the pump out dock with two fuel dispensing lines, one gas and one diesel, consisting of two-inch welded steel fuel pipes running under an existing walking platform from the tank enclosure on the upland to the fuel dispenser, which includes a containment sump and hose reel. The provision provides for the construction to begin on April 6, 2010 and completion no later than September 29, 2010.
4. The "Consideration" in Section 2 paragraph 1B of the Lease is revised to include fuel sales at one and one-half cents per gallon of fuel sold annually on or over the lease premises to a maximum of 100,000 gallons and two cents per gallon for all fuel sales over 100,000 gallons.
5. Replace Exhibit A of the Lease, "Percentage of Gross Report" with Exhibit A "Report of Annual Gross Income."
6. Replace Exhibit C of the Lease "Map of Authorized Improvements" with the attached new Exhibit C.
7. Add a special provision to Section 2 that the Lessee must implement the Commission's "Best Management Practices (BMPs) for Marina

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Owners/Operators” (Exhibit D), incorporate the Commission’s “BMPs for Berth Holders and Boaters” (Exhibit E) into Lessee’s berth rental agreements, and include the additional BMPs the Commission subsequently deems appropriate for either of the above categories. In addition to the inclusion of the BMPs for Berth Holders and Boaters into the berth rental agreements, the Lessee shall post such publication in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease amendment and on each successive third anniversary thereafter, a report on compliance with all BMPs.

8. Add special provisions to Section 2 of the Lease related to construction and spill prevention control and contingency plan requirements; and compliance with all federal, State, and local government regulations related to the proposed fueling facility.

All other terms and conditions of the lease shall remain in effect without amendment.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the uplands adjoining the Lease Premises and has the right to use the Lease Premises adjoining the adjacent uplands.
2. On October 1, 2002, the Commission authorized a General Lease – Commercial Use to Riverbank Holding Company, LLC (Riverbank) and an Agreement and Consent to Encumbrancing of Lease in favor of Ohio National Life Insurance Company. The lease will expire on August 31, 2027.
3. The Lessee is now proposing to construct a marine fueling facility at Riverbank Marina. The project includes the construction of a 6,000-gallon above ground storage tank located on the upland, which is comprised of a 4,000-gallon gasoline compartment and a 2,000-gallon diesel compartment. Two fuel dispensing lines, one diesel and one gas, are proposed to be constructed on an existing floating dock on the Lease Premises. Two-inch welded steel fuel pipes will run under an existing walking platform from the tank enclosure on the upland to the fuel dispenser on the floating dock. Both the fuel dispenser and the fuel tank on the upland are designed with several safety features. The fuel tank will be enclosed in a six-foot high concrete block structure that will, in turn, be surrounded by up to 16 four-inch concrete-filled bollards. The storage tank will be monitored with a Veeder-Root TSL 300 Monitoring System located in the harbor master’s office building. An OSHA approved safety

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protection system will be used to mount the fuel piping and electrical conduits to the underside of the walkway. The fuel dispenser on the dock includes a containment sump at the dispenser base and hose reels. The dispenser, dispensing hardware and containment pedestal on the dock will be engineered and constructed to be able to withstand the conditions of the dock movement, harsh sun, rain, wind, etc. A 24-foot pontoon boat will be used for work over the water.

The Lessee is now applying for an amendment to the Lease for the proposed marine fuel dispenser project. The Lessee anticipates construction to begin sometime in April 2010 with completion by the end of September 2011.

4. Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 14, California Code of Regulations, section 15303.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

5. 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.

**APPROVALS OBTAINED:**

U. S. Army Corps of Engineers, Central Valley Flood Protection Board, California Regional Water Quality Control Board, California Air Resources Board, California Metropolitan Air Quality Management Division, California Reclamation District 1000, City of Sacramento, Sacramento Fire Department

**EXHIBITS:**

- A. Site and Location Map
- B. Lease Description
- C. Authorized Improvements

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**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; Title 14, California Code of Regulations, section 15303.

**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:**

Authorize the amendment of Lease No. PRC 6427.1, a General Lease – Commercial Use, of lands shown on Exhibit A attached (for reference purposes only) and described on Exhibit B attached and by this reference made a part hereof, effective April 6, 2010, to:

Revise Section 1 of the Lease, “Land Use or Purpose” to include a marine fuel dispenser located on the pump out dock with one diesel fuel dispensing line and one gas dispensing line consisting of two-inch welded steel fuel pipes running under an existing walking platform and including a containment sump at the dispenser base and a hose reel;

Revise Section 1 of the Lease by deleting “Authorized Improvements” in its entirety and replace with: A commercial marina consisting of a total of 132 covered berths of various lengths, 25 uncovered berths of various lengths, outside side-tie docks measuring 236 feet for Dock A, 200 feet for Dock B, 290 feet for Dock C, and 512 feet for Dock D, with all outside docks accommodating approximately 19 boats in total, and an inside side-tie dock fronting F and G Docks accommodating approximately nine boats; a sewage pumpout, debris deflector; two speed signs; a restaurant with an accommodation dock measuring 152 feet; two floating offices; two security vessels, and one diesel dispensing line, one regular gas dispensing line, and a marine fuel dispenser with hose reels;

Revise Section 1 of the Lease “To be Constructed” to include the construction of a marine fuel dispenser located on the pump out dock with two fuel dispensing lines, one gas and one diesel, consisting of two-inch welded steel fuel piping running under an existing walking platform from the tank enclosure on the upland to the fuel dispenser, which includes a

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containment sump and hose reel. The provision provides for the construction to begin on April 6, 2010 and completion no later than September 29, 2010;

Revise Section 2, paragraph 1B of the Lease, "Consideration" to include fuel sales of one and one-half cents per gallon of fuel sold annually on or over the Lease Premises to a maximum of 100,000 gallons, and two cents per gallon for all fuel sales over 100,000 gallons;

Replace Exhibit A of the Lease, "Percentage of Gross Report" with the new Exhibit A "Report of Annual Gross Income."

Replace Exhibit C of the Lease "Map of Authorized Improvements" with the attached new Exhibit C; and

Add "Construction of Marine Fuel Dispenser and Fuel Lines" provisions to Section 2, as set forth in the lease Amendment which is on file in the Office of the State Lands Commission.

Add "Spill Prevention Control and Contingency Plan" provision to Section 2, as set forth in the lease Amendment which is on file in the Office of the State Lands Commission.

Add "Best Management Practice" provisions to Section 2, as set forth in the lease Amendment which is on file in the Office of the State Lands Commission.

Add "Compliance Requirement" provisions to Section 2, as set forth in the lease Amendment which is on file in the Office of the State Lands Commission.

All other terms and conditions of the lease shall remain in effect without amendment.