

**CALENDAR ITEM
C18**

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08/14/12
PRC 6427.1
V. Caldwell

REVISION OF RENT

LESSEE:

Riverbank Holding Company, LLC

AREA, LAND TYPE, AND LOCATION:

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

AUTHORIZED USE:

Continued use and maintenance of an existing commercial marina known as Riverbank Marina.

LEASE TERM:

25 years, beginning September 1, 2002.

CONSIDERATION:

This lease provides that Lessor may modify the rent periodically during the lease term. Pursuant to this provision, staff conducted a review of the rent under this lease, and recommends that the minimum annual rent against a percentage of gross income generated on the Lease Premises be revised from a minimum annual rent of \$60,484, paid quarterly, to \$45,000, paid quarterly, effective September 1, 2012.

The minimum annual rent is paid against the following percentages of gross income: 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; 25 percent of gross income generated from coin-operated vending and electronic game machines; 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, and 10 percent of all other gross income generated on the Lease Premises.

CALENDAR ITEM NO. C18 (CONT'D)

SPECIFIC LEASE PROVISIONS:

Surety:

This lease provides that Lessor may increase the amount of the surety bond or other security periodically during the lease term. Pursuant to this provision, staff recommends an increase in the surety bond from \$20,000 to \$50,000, effective September 1, 2012.

OTHER PERTINENT INFORMATION:

1. 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. On February 1, 2010, the Commission authorized an amendment of the lease for the construction of a marine fuel dispenser. The lease will expire on August 31, 2027.
2. Due to current economic conditions which have resulted in a decline in the Lessee's marina revenues since late 2009, the Lessee has requested a reduction in their minimum annual rent only, not the percentage of gross rent structure. The minimum annual rent is paid at the beginning of the lease year. At the end of each lease year, the Lessee pays the balance owed based on the percentage of gross rents generated above the previously paid minimum rent for that lease year.
3. Staff has reviewed the financial statements of the past two lease years and for half of the current lease year. The vacancy rate has been higher than in previous years and is anticipated to remain so until the economy picks up.

For the past two years, the minimum annual rent has exceeded the contractual percentage of revenue to the State because the minimum was previously set in 2007 and was based on better economic conditions with considerably higher revenues. Staff recommends a reduction in the minimum annual rent for the next five years. Under the terms of the lease, the rent will again be reviewed in five years. The rent is paid current through the anniversary date of September 1, 2012.

4. Staff recommends that the surety amount be increased to a level consistent with current marina leases of similar size.
5. The staff recommends that the Commission find that the subject revision of rent and surety does not have a potential for resulting in either a direct

CALENDAR ITEM NO. C18 (CONT'D)

or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

EXHIBIT:

- A. Site and Map Location

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

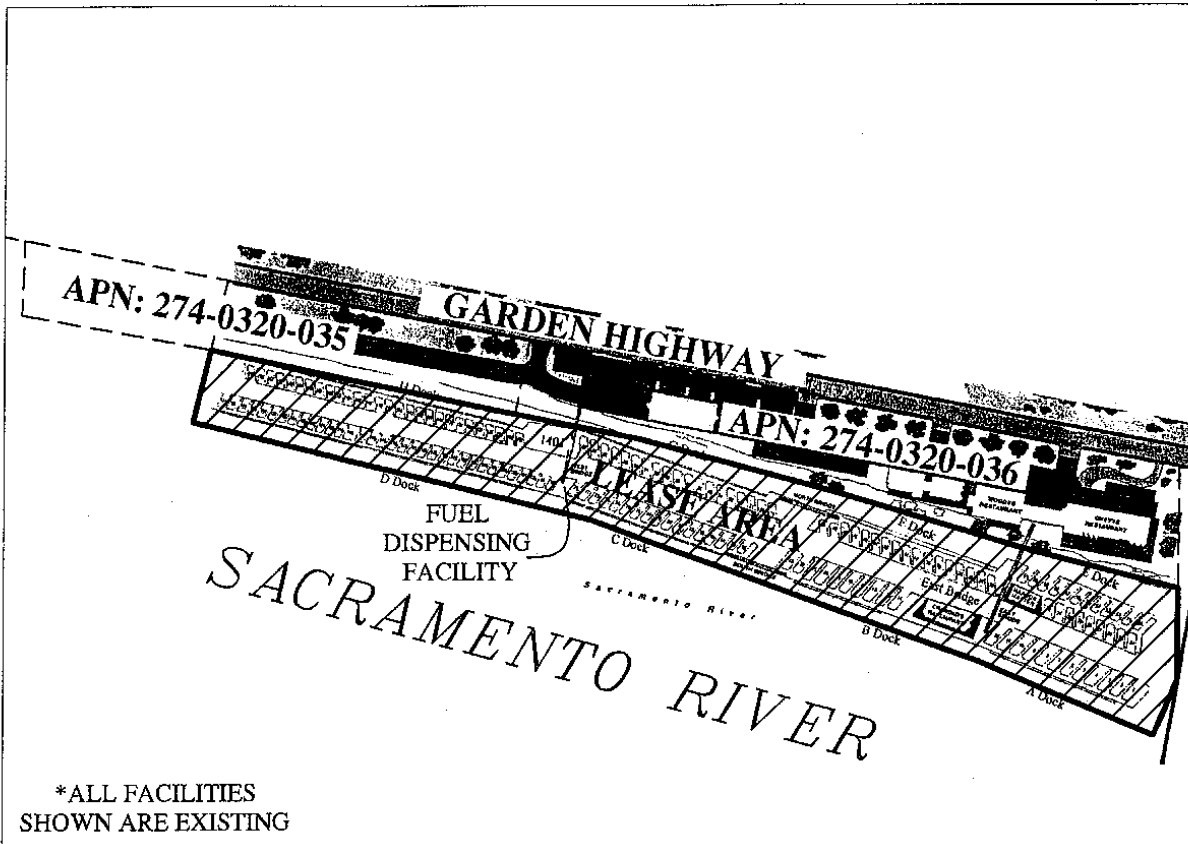
Find that the subject revision of rent and surety is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

1. Approve the revision of minimum annual rent for Lease No. PRC 6427.1 from \$60,484 per year, paid quarterly, to \$45,000 per year, paid quarterly, effective September 1, 2012.
2. Approve the increase in the surety from \$20,000 to \$50,000, effective September 1, 2012.

NO SCALE

SITE



*ALL FACILITIES SHOWN ARE EXISTING

1361-1371 Garden Highway, Sacramento

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 6427.1
 RIVERBANK MARINA
 APN: 274-0320-035, 036
 GENERAL LEASE -
 COMMERCIAL USE
 SACRAMENTO 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.