

MINUTE ITEM 40

PRC 6015

Fong

ASSIGNMENT OF GENERAL LEASE — COMMERCIAL USE

Calendar Item 40, attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 40

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06/30/92
PRC 6015
Fong

ASSIGNMENT OF GENERAL LEASE - COMMERCIAL USE

ASSIGNOR:

River View Marina, a limited Partnership
c/o Edmund J. Coyne
901 Tamalpais Avenue, Suite 200
San Rafael, California 94901

ASSIGNEE:

Sandra West and Lora Tell
535 Banks Street
San Francisco, California 94110

AREA, TYPE LAND AND LOCATION:

A 3.86-acre parcel of tide and submerged lands located in
the Sacramento River adjacent to the Garden Highway,
Sacramento County.

LAND USE:

Commercial marina.

TERMS OF ORIGINAL LEASE:

Initial period:

Thirty (30) years beginning January 1, 1981.

Surety bond:

\$5,000.

Public liability insurance:

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

Consideration:

Five percent of the gross income derived from the
rental of boat docks and moorings, one percent of the
gross income from sources exclusive of dock rentals and

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moorings with a minimum annual rental of \$8,000 paid in advance on January 1; with the state reserving the right to fix a different rental on each fifth anniversary of the lease.

TERMS OF PROPOSED AMENDMENT:

Pursuant to the rent review provisions of the lease, the consideration for the lease is to be changed as follows: Five and one-half percent of the gross income derived from the rental of boat docks and moorings, three percent of the gross income generated on the premises from snackbar/deli operations; and ten percent of all other gross income generated from the lease premises, effective January 1, 1991.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and expense deposit have been received.

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 394:

N/A

OTHER PERTINENT INFORMATION:

Background

Conditions which constitute defaults and breaches of the lease exist as follows:

- (a) Nonpayment of set rents and penalty and interest on owed amounts.
- (b) Establishment of unauthorized full service food operation and sublet of facility without Commission authorization to the Jammin' Salmon Restaurant.
- (c) Nonpayment of rent associated with the operation of the Jammin' Salmon.
- (d) Operation of facility without a current \$5,000 surety bond. The surety bond on file expired October 22, 1989.

Current Situation:

River View is in escrow for the sale of the marina. Staff has negotiated with lessee to resolve the defaults and breaches identified above. It has been agreed that the issue of the restaurant will be addressed by the new owners after the close of escrow. If the sale should not go through, then staff will require the current lessee to resolve the restaurant breach. Lessee has agreed to the proposed rental increase, effective January 1, 1991. Staff has reached agreement with lessee regarding back rents and penalty and interest on the back rents. These amounts will be paid out of the escrow. Staff is negotiating separately for additional rents for the operation of the Jammin' Salmon Restaurant from its owner, Mr. Doyle Bailie. Mr. Bailie has an application pending with the City of Sacramento to bring the restaurant in conformance with the South Natomas Community Area Plan. The City is acting as the CEQA Lead Agency for this project and staff is waiting for the completion of this process before bringing the lease amendment to the Commission.

The buyers have been apprised of the existing breaches of the lease and of the proposed rental increase, effective January 1, 1991. The buyers acknowledge the breaches and rental increases and wish to proceed with the transaction. The buyers have also made a commitment to cure the restaurant breach by subsequently requesting an amendment to the lease to allow such use.

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.

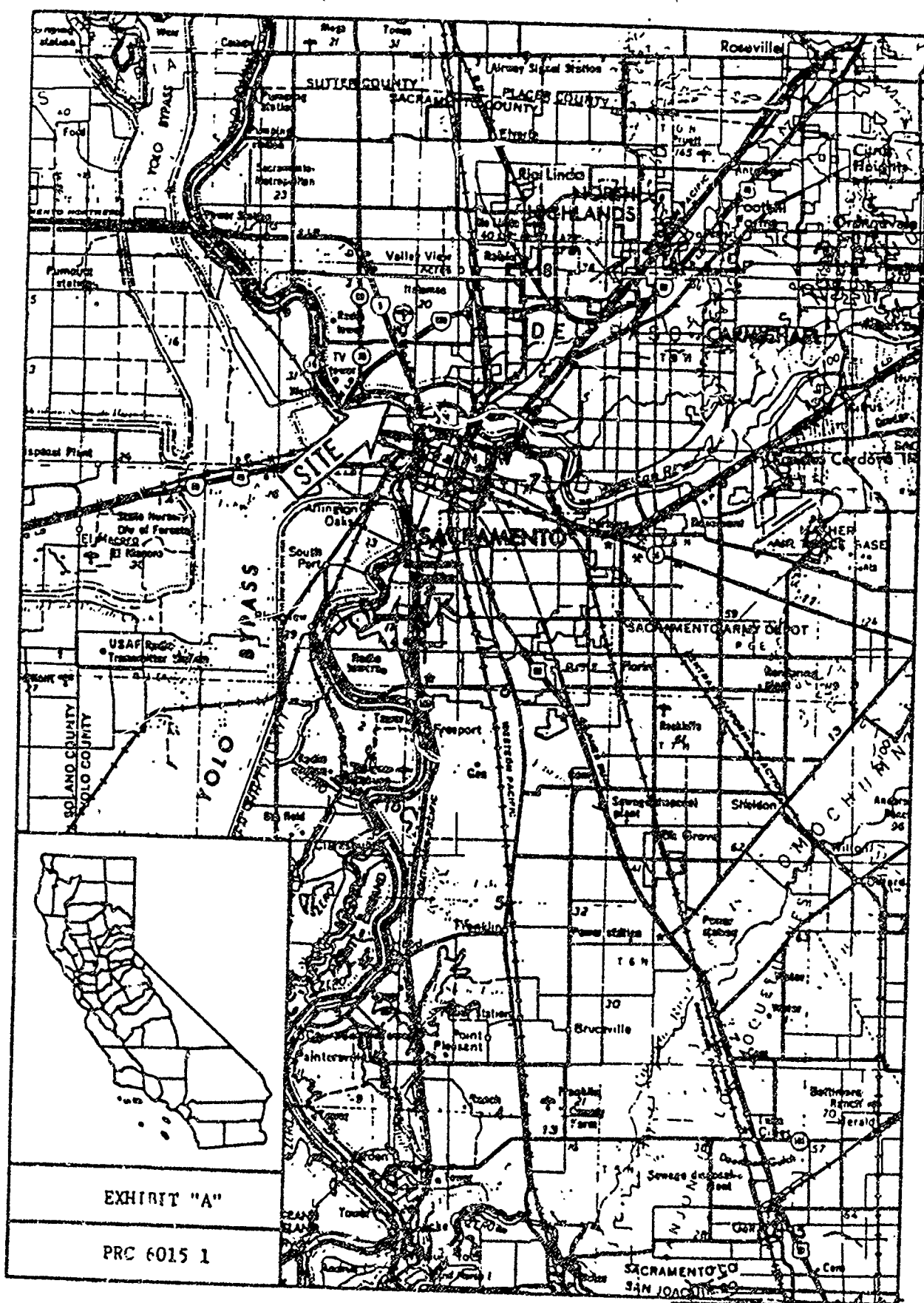
Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

EXHIBIT:

- A. Location Map

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 ACCEPTANCE OF \$41,383.56 IN SATISFACTION OF BACK RENT, PENALTY, AND INTEREST FOR THE PERIOD OF JANUARY 1, 1985 TO JULY 30, 1992.
3. APPROVE THE SETTING OF A REVISED RENTAL BASED UPON A MINIMUM ANNUAL RENT OF \$8,000; FIVE AND ONE-HALF PERCENT OF THE GROSS INCOME FROM BERTHING; THREE PERCENT OF THE GROSS INCOME GENERATED ON THE PREMISES FROM SNACKBAR/DELI OPERATIONS; AND TEN PERCENT OF ALL OTHER GROSS INCOME GENERATED FROM THE LEASE PREMISES, EFFECTIVE JANUARY 1, 1991, FOR A 30-YEAR GENERAL LEASE - COMMERCIAL USE, LEASE NO. PRC 6015 FOR A 3.86-ACRE PARCEL OF TIDE AND SUBMERGED LAND LOCATED IN THE SACRAMENTO RIVER ADJACENT TO THE GARDEN HIGHWAY, SACRAMENTO COUNTY FOR A COMMERCIAL MARINA.
4. AUTHORIZE THE APPROVAL OF AN ASSIGNMENT OF LEASE PRC 6015 FROM RIVER VIEW MARINA, A LIMITED PARTNERSHIP (ASSIGNOR) TO SANDRA WEST AND LORA TELL (ASSIGNEE), EFFECTIVE UPON CLOSE OF ESCROW OF THE SALE OF THE UPLAND, BUT IN NO EVENT LATER THAT JULY 30, 1992. ALL OTHER TERMS, CONDITIONS, AND AUTHORIZED USES REMAIN IN FULL FORCE AND EFFECT.



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