MINUTE ITEM
This Calendar Item No. C6
was approved as Minute Item
No. 6 of the State Lands
Commission by a vote of 3
on 8/29/85.

CALENDAR ITEM

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08/29/85
WP 6427 PRC 6427
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LEASE AMENDMENT, SUBLEASE APPROVAL, AND
APPROVE LEASEHOLD ENCUMBRANCE

APPLICANT: Riverbank Holding Company
Attn: Mr. Thomas C. Westley
General Manager
1361 Garden Highway
Sacramento, California 95833

AREA, TYPE LAND AND LOCATION:
5.272 acres, tide and submerged land, Sacramento River, Sacramento County.

LAND USE: Commercial marina, floating restaurant, harbor master office, boat sales office, debris reflector, and all appurtenant facilities related thereto.

TERMS OF EXISTING LEASE PRC 6427:

Initial period: 20 years beginning August 1, 1984.

Surety bond: $10,000.

Public liability insurance: Combined single limit coverage of $1,000,000.

CONSIDERATION: ANNUAL RENTAL.

Six percent of the gross income derived from the rental of boat docks and moorings. Three percent of the gross income derived from the operation of restaurant and bar. Twenty-five percent of the gross income derived from the operation of coin-operated vending and electronic game machines. Five percent of the

gross income derived from boat sales (yacht brokerage). Ten percent 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.

PROPOSED ACTIONS (3)

I. Amend Percentage Rental Provisions of Lease PRC 6427

Agreement to a minor modification of percentage of gross entitlements in said lease discussed below in Paragraph 1 of Other Pertinent Information.

II. Approve Sublease by Endorsement

Validation of a tenancy between the Lessee and Hoig's Marine, covered in Paragraph 2 of Other Pertinent Information.

III. Agreement and Consent to Encumbrancing of Lease

Approval of a financing proposal for Lessee's operations, described in Paragraph 3 of Other Pertinent Information.

APPLICANT STATUS:
Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Processing costs have been received.

STATUTORY AND OTHER REFERENCES:
A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

AB 884: N/A.

OTHER PERTINENT INFORMATION:
1. Amend Percentage Rental Provisions of Lease PRC 6427

A) The existing lease provides, in part, that the Lessor shall receive five percent of the gross income derived from boat sales (Yacht Brokerage); it was originally anticipated that all boat sales would be conducted by a broker. The Lessee has recently advised, however, that the boat sales program will now include some transactions where a broker will not be involved. Such transactions will be handled by Hoig's Marine (proposed sublessee), who will sell its own new vessels, without brokerage services. Hoig will also sell used vessels owned by others and these will include a broker's time and commissions.

B) The Lessee and the staff have agreed to a change in the rental provisions of the lease to cover the State's share of income from broker and nonbroker boat sales. Staff believes the new provisions keep to the original intent of the lease while allowing the integrated sales program to function.

C) The new provisions specify that the State will be entitled to five percent of the gross commission derived from boat sales when a broker conducts the sales; where no broker is involved, the State's entitlement will be 0.5 percent of the total sales price, when the sales are conducted by an approved subtenant who is regularly engaged in the business of selling his own boats at the lease premises.

2. Approve Sublease by Endorsement

Sublessor:	Riverbank Holding Company
Sublessee:	Hoig's Marine
Term:	Five years from July 15, 1985

Area:		1,300 sq.ft. portion of lease premises.
Rent:	(A)	Initial; $1.50 per sq.ft. per month.
	(B)	Subsequent; rental subject to annual adjustment each anniversary.
Purpose:		New and used yacht sales, brokerage and accessories.
Insurance:	(A)	Combined single limit coverage of $1,000,000.
	(B)	Property damage coverage of $250,000

The staff has reviewed this sublease and finds it acceptable, provided that the State of California, its officers, agents, and employed, be named as additional insured on certificates of coverage to be provided to the Commission by the sublessee.

3. Agreement and Consent to Encumbrancing of Lease

A) Lessee: Riverbank Holding Company
B) Secured-Party Lender:
First Federal Lincoln
3883 Normal Blvd, Suite 204
Lincoln, Nebraska 68506

On August 21, 1984, the Commission consented to an initial financing agreement under which the Lessee secured funds from First Federal Lincoln for initial construction. The Lessee now seeks additional funding from that institution and requests Commission consideration of the proposed consent and agreement. The document is on file in the offices of the Commission. Staff has no objections to the agreement and commends its approval.

4. Environmental Considerations

A. The Commission authorized the issuance of Lease PRC 6427 on July 12, 1984. At that time, the Commission found that an EIR was prepared and adopted for this project by the City of Sacramento Planning Department and that the Commission had reviewed and considered the information contained therein.

B. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that the activity covered herein is exempt from the requirements of the CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The staff believes there is no possibility that this activity may have a significant effect on the environment.

Authority: 14 Cal. Adm. Code 15061(b)(3).

APPROVALS OBTAINED:
None.

FURTHER APPROVALS REQUIRED:
None.

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. ADM. CODE 15061 BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT. (14 CAL. ADM. CODE 15061(b)(3))

2. AUTHORIZE, EFFECTIVE SEPTEMBER 1, 1985, THE AMENDMENT OF LEASE PRC 6427, SECTION 2, PARAGRAPH (1)(a)(4) TO PROVIDE THAT THE STATE WILL BE ENTITLED TO:

A) FIVE PERCENT OF THE GROSS COMMISSION DERIVED FROM BOAT SALES, IF SUCH SALES ARE CONDUCTED BY A YACHT BROKER: OR

B) WHERE NO YACHT BROKER IS INVOLVED, 0.5 PERCENT OF THE TOTAL SALES PRICE DERIVED FROM BOAT SALES, IF SUCH SALES ARE CONDUCTED BY BOAT OWNERS WHO ARE APPROVED SUBTENANTS OF LESSOR AND REGULARLY ENGAGED IN THE BUSINESS OF SELLING BOATS.

3. APPROVE, BY ENDORSEMENT, THE SUBLEASE AGREEMENT BETWEEN RIVERBANK HOLDING COMPANY (SUBLESSOR) AND HOIG'S MARINE (SUBLESSEE), PROVIDED THAT THE STATE OF CALIFORNIA IS NAMED AS ADDITIONAL INSURED ON CERTIFICATES OF LIABILITY INSURANCE COVERAGE TO BE PROVIDED TO THE COMMISSION BY SAID SUBLESSEE.

4. AUTHORIZE EXECUTION OF THE AGREEMENT AND CONSENT TO ENCUMBRANCING OF LESSEE'S RIGHTS, TITLE, AND INTERESTS IN LEASE PRC 6427 IN FAVOR OF FIRST FEDERAL LINCOLN: FOR THE PURPOSE OF OBTAINING ADDITIONAL FUNDS FOR THE CONSTRUCTION OF FACILITIES AUTHORIZED UNDER LEASE PRC 6427.

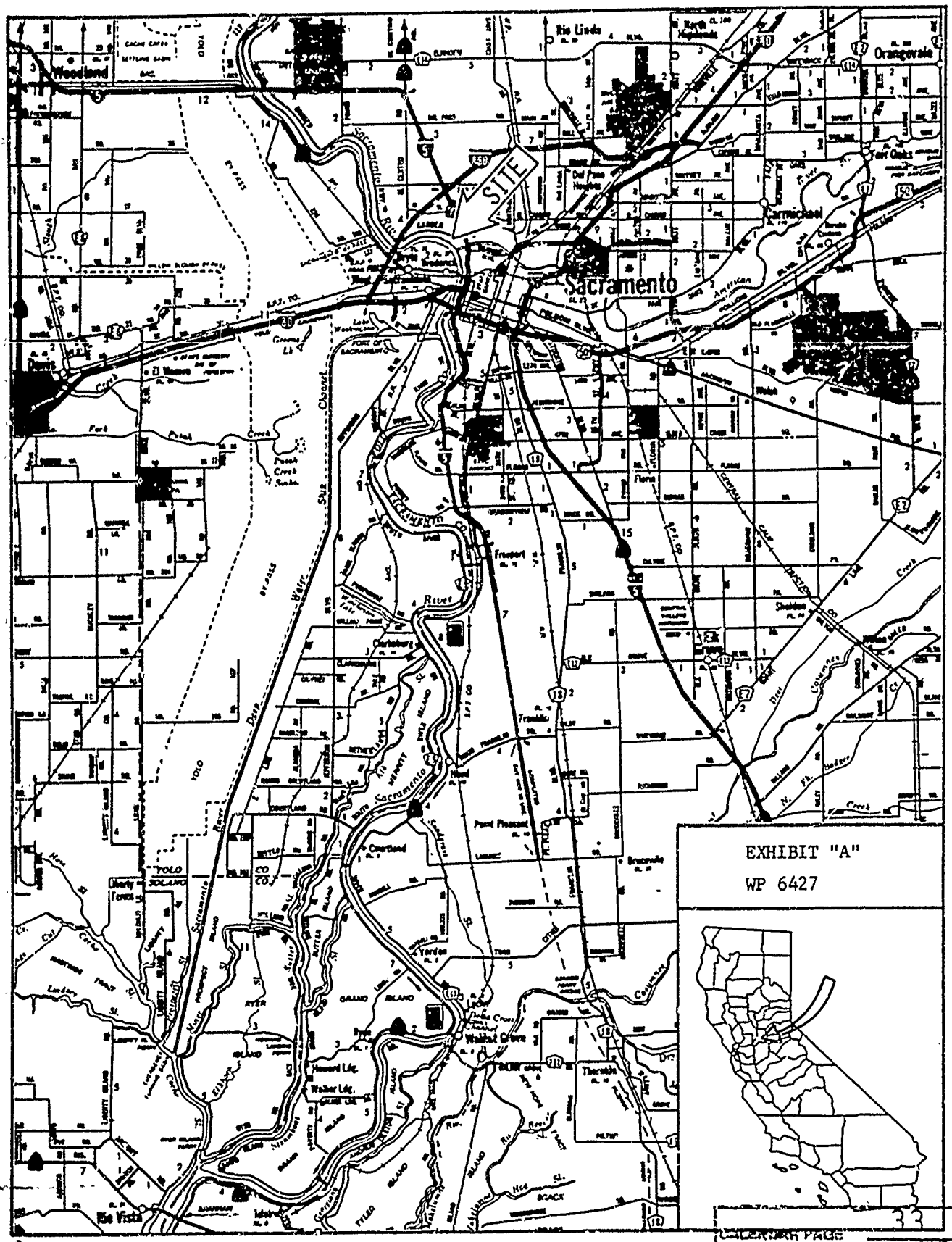

EXHIBIT "A"
WP 6427

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