MINUTE ITEM
This Calendar Item No. 16
was approved as Minute Item
No. 16 by the State Lands
Commission by a vote of 3
to 0 at its 8-20-87
meeting.

CALENDAR ITEM

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RECOGNITION OF FIRST SOUTH SAVINGS ASSOCIATION AS LESSEE UNDER LEASES PRC 6504, 6505, and 6506 BY WAY OF TRUSTEES DEED UPON SALE OF LEASEHOLDS

APPLICANT: First South Savings Association
P.O. Box 820017
Houston, Texas 77282-0017

BACKGROUND:

At its meeting on October 26, 1983 (Minute Item 28), the Commission authorized issuance of three commercial leases to Burlingame Group for the construction and maintenance of a hotel and two free-standing restaurants. The leases run 49 years from November 1, 1983 and cover approximately 8.8 acres of bay frontage in the City of Burlingame. The Commission later approved an assignment to Burlingame Joint Venture I (BJV).

At its meeting on July 16, 1987 (Minute Item No. 15), the Commission approved staff's recommended finding that the leases were in breach for several reasons including nonpayment of rent and failure to provide required insurance coverage.

CURRENT SITUATION:

Subsequent to staff's preparation of the July 16th Calendar Item, the State was notified by First South Savings Association (lender) that it had succeeded to the interests of BJV by process of foreclosure. The lender has provided staff with a copy of its Trustee's Deed upon Sale wherein the leasehold interest of BJV has been transferred to First South Savings.

The leases provide that the lessee could subject the leaseholds to one or more mortgages secured by its leasehold, interest provided the Commission first recognized and approved the lender, and the parties executed an encumbrancing agreement detailing the rights and responsibilities of the parties.

Even though the Commission has not formally approved First South as lender, as provided under the leases, staff is recommending that the Commission formally recognize First South as lessee under the leases, as provided by paragraph 22.2 of the leases. First South has made the last two ($50,000) rental payments in order to keep the leases current with respect to rent for the last two years.

As a result of its actions on July 16, 1987, a "Notice of Default" has been sent to Burlingame Joint Venture I and to First South Savings and all other parties requiring notice to cure the listed default items within thirty days or be subject to the remedies available to the State, as provided in the leases and at law. First South has already indicated its willingness to cure, or to commence to cure, the defaults as quickly as possible to keep the leases in good standing.

AB 884: N/A

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.

2. RATIFY FIRST SOUTH SAVINGS ASSOCIATION AS AN APPROVED LENDER; ACCEPT THEIR SUBMITTED RENTAL PAYMENTS TO MAKE THE LEASE PAYMENTS CURRENT; AND SUBSTITUTE, IN ACCORDANCE WITH THE TRUSTEE'S DEED UPON SALE ON FILE IN THE SACRAMENTO OFFICE OF THE STATE LANDS COMMISSION, FIRST SOUTH SAVINGS ASSOCIATION AS LESSEE UNDER LEASES PRC 6504, 6505, and 6506 SUBJECT TO ALL THE TERMS AND CONDITIONS OF THE LEASES AS THOUGH ORIGINALLY ENTERED INTO BY FIRST SOUTH SAVINGS AS LESSEE.

3. AUTHORIZE STAFF AND/OR THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO GIVE EFFECT TO THIS APPROVAL AND TO ENSURE THAT ALL THE TERMS AND CONDITIONS OF THE LEASES ARE IN FULL FORCE AND EFFECT.

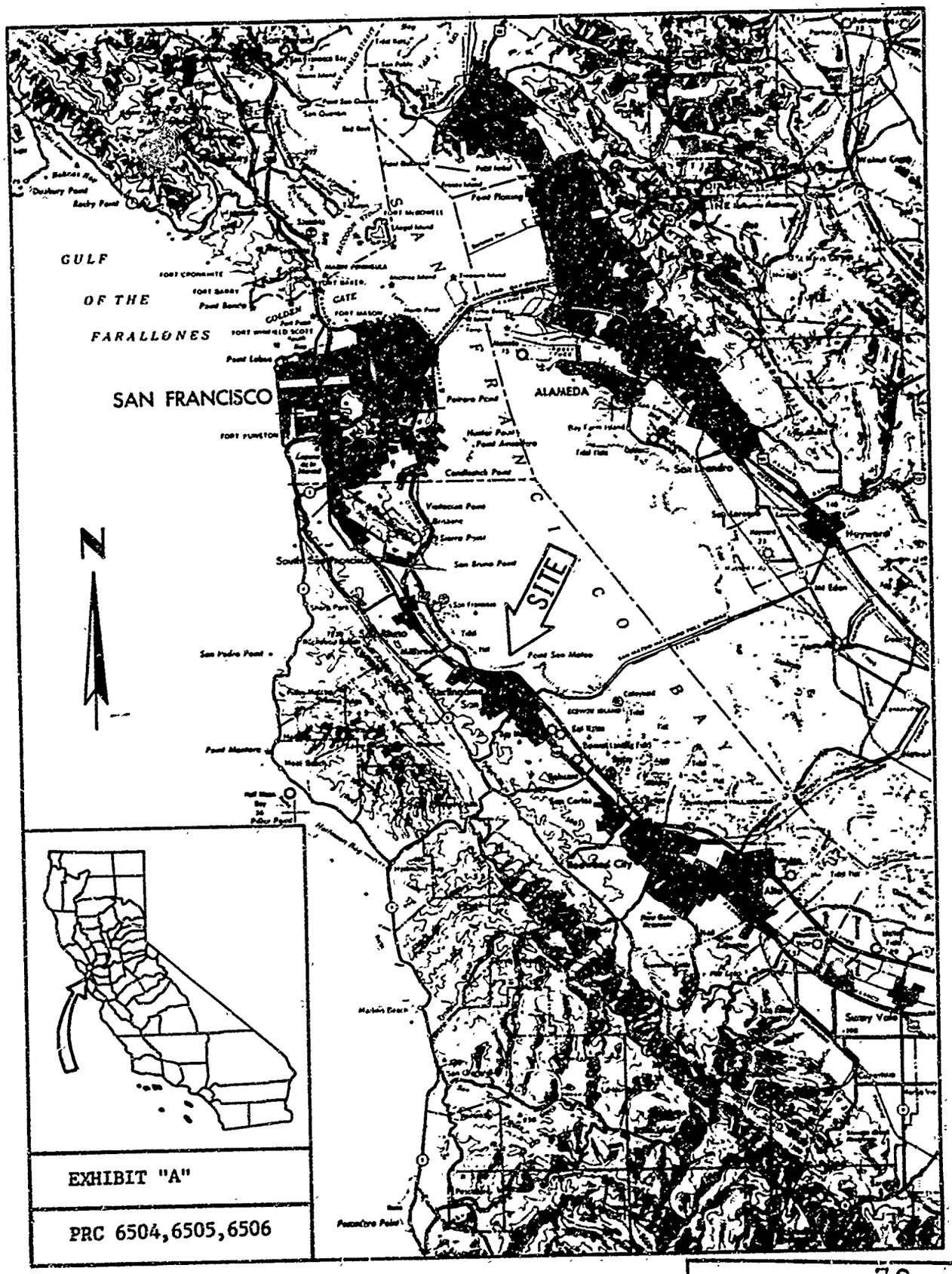


EXHIBIT "A"

PRC 6504,6505,6506

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