MINUTE ITEM

This Calendar Item No. C03 was approved as Minute Item No. 03 by the California State Lands Commission by a vote of 3 to 0 at its 04-05-04 meeting.

CALENDAR ITEM
C03

A 9

S 6

PRC 6015

04/05/04
WP 6015.1
L. Burks

APPROVAL OF AMENDMENT OF GENERAL LEASE – COMMERCIAL USE AND APPROVAL OF AGREEMENT AND CONSENT TO ENCUMBRANCING AGREEMENT

LESSEE:

River View Marina, a Limited Partnership
135 Third Street, Suite 150
San Rafael, California 94901

SECURED-PARTY LENDER:

Gateway Financial Corporation, a California Corporation
135 Third Street, Suite 150
San Rafael, California 94901

AREA, LAND TYPE, AND LOCATION:

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

AUTHORIZED USE:

Continued use and maintenance of a commercial marina.

LEASE TERM:

30 years, beginning January 1, 1981.

CONSIDERATION:

A Minimum Annual Rent of $8,000, to be paid in four quarterly installments of $2,000, payable on July 1, October 1, January 1 and April 1 of each year, against five and one-half percent (5.5%) of the Gross Income derived from the rental of boat docks and moorings as conducted by Lessee or other operator; ten percent (10%) of the Gross Income derived by Lessee, Sublessees or other operators from sources exclusive of dock rentals and moorings; one and one-half percent (1.5%) of the Gross Income derived from sales by the restaurant; one percent (1%) of the Gross Income derived from boat charters by Sublessee or other

operator; and one half of one percent (0.5%) of the Gross Income derived from yacht sales by Sublessee or other operator.

PROPOSED AMENDMENT:

The proposed amendment will change the lease term from 30 years, beginning January 1, 1981, to 48 years, beginning January 1, 1981. The amendment will also increase the Minimum Annual Rental to $15,000, which is payable in quarterly installments, and provide that Lessor is authorized to increase the surety bond or any other security device when the lease is scheduled for a rent review. The existing surety bond is in the amount of $20,000. Sections 2 and 4 of the current lease form are deleted and new Sections 2 and 4 are added to update the lease form and bring the lease into conformance with current lease standards and Commission policies. All other terms and conditions of the lease shall remain in effect without amendment.

PROPOSED ENCUMBRANCE OF LEASE:

Lessee is requesting that the Commission approve a new Agreement and Consent to Encumber the Lease with Gateway Financial Corporation, a California Corporation, as secured party lender in the amount of $450,000. This new loan will be in second position, after the existing loan in favor of Luther Burbank Savings and Loan. The purpose of the loan is to repay existing unsecured debt of the Borrower and for working capital. The existing debt is in the amount of $430,000. The balance of the Loan proceeds will be used for working capital, including, maintenance, repairs and upgrades to the marina facilities. The marina is now 23 years old and in need of repairs to the docks and underwater truss system, partial replacement of wood decking and upgrades to bathrooms and shower facilities.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

2. On June 24, 1981, the Commission approved a 30-year General Lease – Commercial Use No. PRC 6015.1, with River View Marina, a Limited Partnership, for a commercial marina, beginning May 18, 1981, and subsequently on January 27, 1983, the Commission authorized an amendment to General Lease – Commercial Use No. PRC 6015.1 to change the lease to a 30-year term, beginning January 1, 1981. On July 10, 1997, the Commission authorized an Agreement and Consent to Encumber the Lease with Luther Burbank Savings and Loan as secured party lender in the amount of $750,000.

3. Encumbrance of Lease
Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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

Lease Amendment
Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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

4. 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.

EXHIBITS:

A. Site Plan
B. Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:
ENCUMBRANCE OF LEASE
FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

LEASE AMENDMENT
FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

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:
1. AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 6015.1, A GENERAL LEASE – COMMERCIAL USE, OF LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE APRIL 5, 2004, TO CHANGE THE TERM OF THE LEASE TO BEGIN JANUARY 1, 1981, FOR A PERIOD OF 48 YEARS; AND TO INCREASE THE MINIMUM ANNUAL RENT TO $15,000, WHICH IS PAYABLE IN QUARTERLY INSTALLMENTS; AND TO DELETE SECTIONS 2 AND 4 OF THE LEASE AND TO REPLACE THEM WITH NEW SECTIONS 2 AND 4; AND TO PROVIDE THAT LESSOR MAY INCREASE THE SURETY BOND OR ANY OTHER SECURITY DEVICE WHEN THE LEASE IS SCHEDULED FOR A RENT REVIEW. ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT; ALL SUBSTANTIALLY IN THE

FORM OF LEASE AMENDMENT AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

2. AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT OF $450,000 ON FILE IN THE OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION, IN FAVOR OF GATEWAY FINANCIAL CORPORATION, A CALIFORNIA CORPORTION, AS SECURED PARTY LENDER.

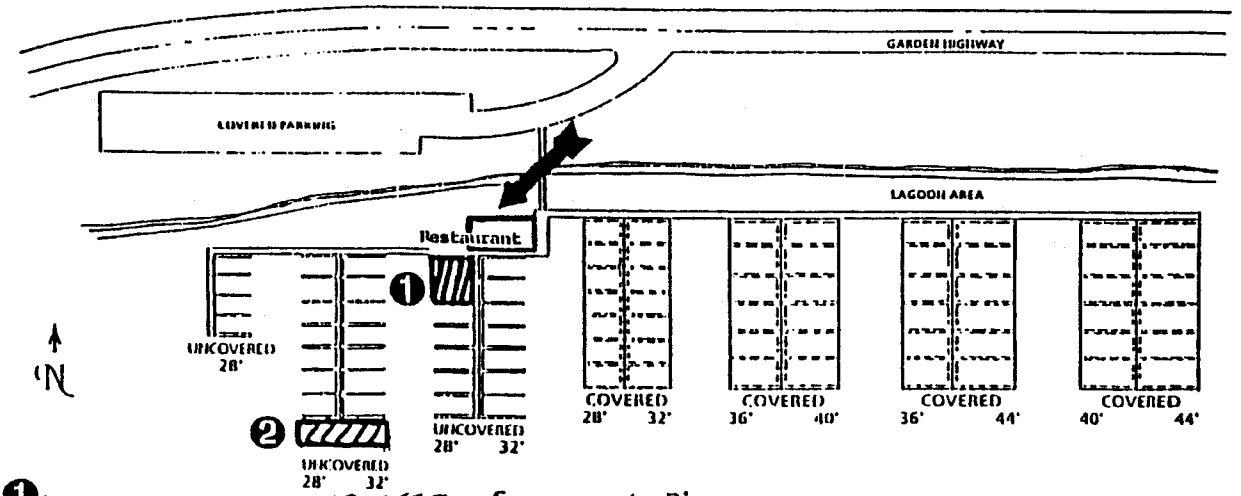
River View Marina

River View...only minutes from downtown Sacramento amidst the country quiet.

River View...a statement about class and distinction.

"Best River View Dining"

Lunch Mon-Sat 11:30-3 pm
Dinner Sun-Thurs 5-9 pm Fri-Sat 5-10 pm
Sunday brunch 9-3 pm
929-6232

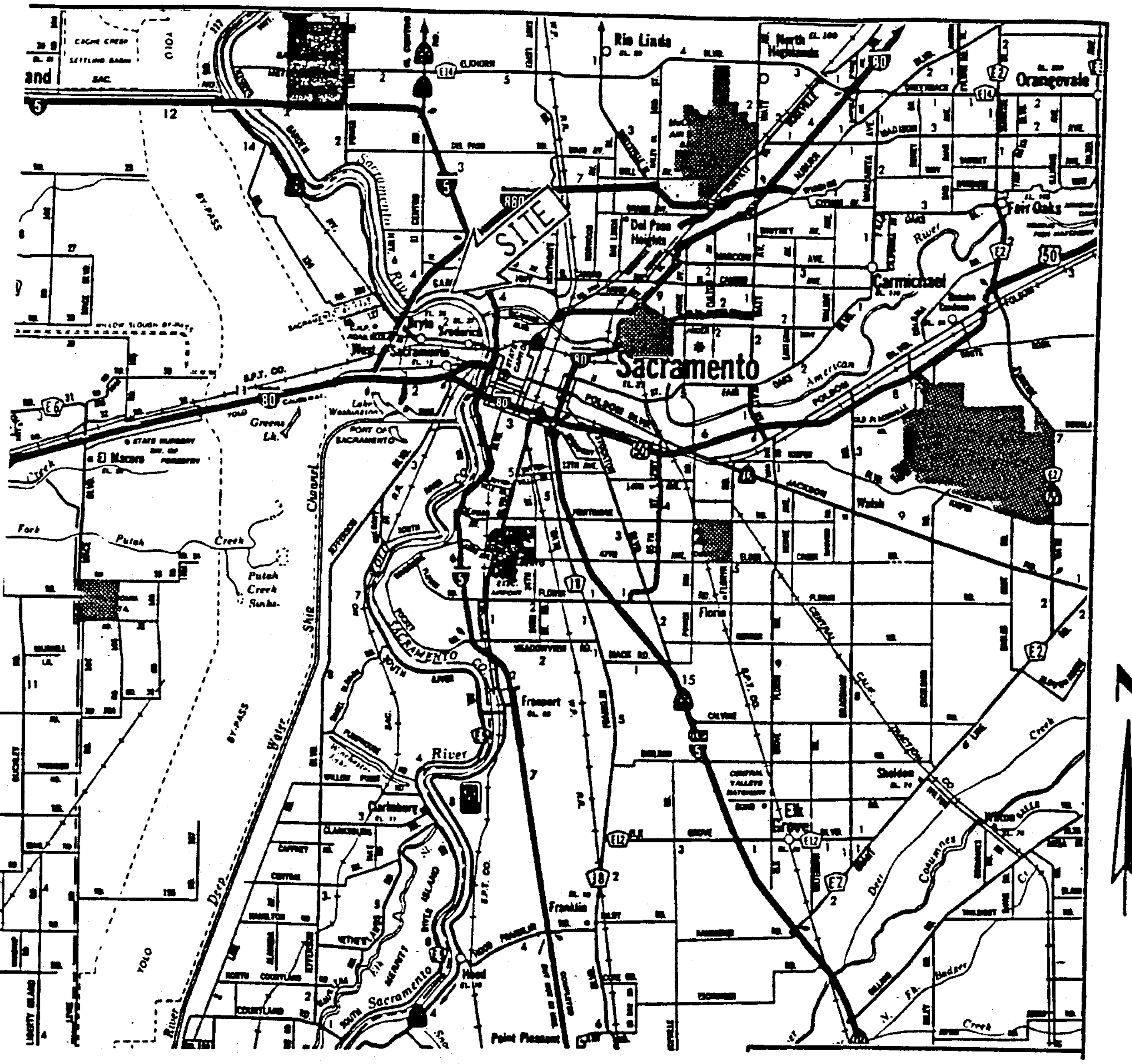


1 Britannia Yacht Sales

2 Halcyon Days

This exhibit is solely for purposes of generally defining the leased premises, is based on unverified information provided by lessee or other parties, and is not intended to be, nor shall it be construed to as a waiver or limitation of any state interest in the subject or any other property.

Exhibit A
PRC 6015.1



Sacramento West Quad, 1967

This exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by 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 other property.	**Exhibit B** **PRC 6015.1**

LMB 7/23/02

000016 CALENDAR PAGE

000335 MINUTE PAGE