

**CALENDAR ITEM  
C12**

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10/29/10  
WP 4194.1  
V. Caldwell

**REVISION OF RENT AND APPROVAL OF SUBLEASES**

**LESSEE/SUBLESSOR:**

Kampgrounds of America, Inc. (KOA)  
550 N. 32st Street, TW3 Fourth Floor  
Billings, Montana 59101

**PREVIOUSLY AUTHORIZED SUBLESSEES**

Tower Park Marina Investors, LLC  
Pacific Boat Detailing  
West Coast Canvas  
Tower Park Boat Sales  
Delta Wakeboards  
Boatfixerguy  
Marine Max of California, Inc.  
T&L Restaurant Enterprises, Inc.

**EXISTING AND PROPOSED SUBLESSEES:**

Tower Park Marina Investors, LLC  
Pacific Boat Detailing  
West Coast Canvas  
Tower Park Boat Sales  
Rosas Italian Restaurant  
Sunset Sweets

**AREA, LAND TYPE, AND LOCATION:**

13.93 acres, more or less, of sovereign lands in Little Potato Slough, adjacent to 14900 W. Highway 12, near the city of Stockton, San Joaquin County.

**AUTHORIZED USE:**

A commercial marina which accommodates approximately 365 boats, a restaurant, bar, banquet room, store, offices, boat elevator/launch ramp, sewage pumpout, six fuel pumps, and ancillary facilities.

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**LEASE TERM:**

30 years, beginning January 1, 1999.

**CONSIDERATION:**

This lease provides that Lessor may modify the method, amount, or rate of consideration periodically during the lease term. Pursuant to this provision, staff conducted a review of the rent under this lease, and recommends the minimum annual rent be revised from \$40,172 to a minimum annual rent of \$46,897, against percentages of gross income as follows: 5.5% of gross income for the berthing, mooring, and launching of boats; 1.5% of gross income for the operation of a restaurant, bar, and banquet room; 5% of gross income for retail businesses/store, and boat repair; 0.5% of the total price from boat sales; 25% of the gross income from the vending and electronic game machines; 10% of all other gross income, including office use; and 1-1/2 cents per gallon for fuel sales under 100,000 gallons; and 2 cents per gallon for fuel sales over 100,000 gallons, effective January 1, 2011.

With the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

**SPECIFIC LEASE PROVISIONS:**

Insurance:

This lease provides that Lessor may increase the amount of liability insurance periodically during the lease term. Pursuant to this provision, staff recommends an increase in liability insurance from \$1,000,000 to \$5,000,000, effective January 1, 2011.

Bond:

This lease provides that Lessor may increase the amount of the surety bond periodically during the lease term. Pursuant to this provision, staff recommends an increase in the surety bond from \$20,000 to \$100,000, effective January 1, 2011.

**OTHER PERTINENT INFORMATION:**

1. Lessee owns the uplands adjoining the lease premises.
2. On February 15, 2007, the Commission authorized the assignment of the Lease PRC 4194.1 from Tower Park Marina Investors, L.P. to Kampgrounds of America, Inc. (Lessee), and approval of a sublease back to Tower Park Marina Investors, L.P. for certain marina operations, including fuel sales, wet and dry boat storage, transient docking, boat trailer storage, boat repair and maintenance, boat launch, and any other related marina service. In addition, the Commission approved seven subleases which operated businesses within the lease premises. The

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subleases involved the following: Ramon Mata operating a boat detailing and maintenance shop under the name of Pacific Boat Detailing; Robert Coons and Jenta Houston operating a boat and engine repair shop under the name of Boatfixerguy; Curtis Grant Page operating a boat repair/canvas shop under the name of West Coast Canvas; Gerald E. Erwin operating boat sales under the name of Tower Park Boat Sales; T&L Restaurant Enterprises, Inc., operating a restaurant and banquet facility; Tom Conway operating a retail wakeboard shop and waverunner rentals under the name of Delta Wakeboards; and MarineMax of California, Inc., operating a boat sales and service shop.

3. Kampgrounds of America, Inc. has now applied for Commission approval of a new sublease to John Giglio and Cheryl Corrigan operating Rosas Italian Restaurant, and a new sublease to Dennis Kulberg operating Sunset Sweets; and extending the terms of the subleases to Pacific Boat Detailing and Tower Park Boat Sales; and acknowledge the termination of subleases to Robert Coons and Jenta Houston dba Boatfixerguy, T&L Restaurant Enterprises, Inc., Tom Conway dba Delta Wakeboards, and MarineMax of California, Inc. Staff of the Commission reviewed these new subleases and concluded they are consistent with the terms of the lease.
4. Pursuant to the Commission's delegation of authority and State CEQA Guidelines [Title 14, California Code of Regulations, section 15060 (c)(3)], the staff determined this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

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

**EXHIBIT:**

- A: Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is not subject to the requirements of 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.

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**AUTHORIZATION:**

1. Approve the revision of minimum annual rent for Lease No. PRC 4194.1 from \$40,172 to \$46,897, against a percentage of gross income, effective January 1, 2011.
2. Increase in liability insurance from \$1,000,000 to \$5,000,000, effective January 1, 2011.
3. Increase in the surety bond from \$20,000 to \$100,000, effective January 1, 2011.
4. Authorize approval of a Sublease between Kampgrounds of America, Inc., and John Giglio and Cheryl Corrigan , operating Rosas Italian Restaurant, effective March 1, 2009, and ending February 28, 2014, for the operation of a restaurant facility with banquet room.
5. Authorize approval of a Sublease between Kampgrounds of America, Inc., and Dennis Kulberg, operating Sunset Sweets, effective March 1, 2010, and ending February 28, 2015, for the operation of an ice cream and fudge shop.
6. Authorize extending the terms of the Sublease between Kampgrounds Of America, Inc., and Ramon Mata, dba Pacific Boat Detailing, effective April1, 2009, and ending July 31, 2014, for the operation of a boat detailing and maintenance business.
7. Authorize extending the terms of the Sublease between Kampgrounds Of America, Inc., and Gerald E. Erwin, dba Tower Park Boat Sales, effective April1, 2009, and ending March 31, 2012, for a boat sale business.
8. Acknowledge the termination of the Sublease between Kampgrounds of America, Inc. and Tom Conway, dba Delta Wakeboards.
9. Acknowledge the termination of the Sublease between Kampgrounds of America, Inc., and T&L Restaurant Enterprises, Inc.

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10. Acknowledge the termination of the Sublease between Kampgrounds of America, Inc., and Robert Coons and Jenta Houston, dba Boatfixerguy.
11. Acknowledge the termination of the Sublease between Kampgrounds of America, Inc., and Marinemax of California, Inc.