

**CALENDAR ITEM
C16**

A 15, 17, 26

10/29/10
PRC 4082.1
M. Clark

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REVISION OF RENT

LESSEE:

Tiki Lagun Partners, LLC
3738 Fourteen Mile River
Stockton, California 95219

AREA, LAND TYPE, AND LOCATION:

Eight acres, more or less, of sovereign land in Whiskey Slough, adjacent to 12988 West McDonald Road, near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of a commercial marina, known as Tiki Lagun, with approximately 212 berths, gas dock and gas pump, sewage pumpout facility, and ancillary facilities.

LEASE TERM:

25 years, beginning January 1, 2005.

CONSIDERATION:

This lease provides that Lessor may modify the rent periodically during the lease term. Pursuant to this provision, staff conducted a review of the rent under this lease, and recommends that the minimum annual rent be revised from \$21,085 per year to \$22,938 per year, against five percent of annual gross income for boat berthing, 25 percent for vending and electronic game machines, 10 percent of all other gross income, and 1½ cents per gallon for fuel sales under 100,000 gallons, and two cents per gallon for fuel sales over 100,000 gallons, effective January 1, 2011.

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 no less than \$1,000,000 to no less than \$3,000,000, effective January 1, 2011.

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Bond:

This lease provided 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 \$25,000 to \$50,000, effective January 1, 2011.

OTHER PERTINENT INFORMATION

1. The Lessees own the upland adjacent to the Lease Premises.
2. On February 17, 2005, the Commission authorized a General Lease – Commercial Use and approval of an Agreement and Consent to Encumbrancing of Lease. That lease will expire on December 31, 2029.
3. While conducting a review of the rent under this lease, staff determined that the Lessee did not report annual income from boat launching and boat rentals for the period of January 1, 2006 through December 31, 2009. Staff recommends the Commission consider accepting back rent in the amount of \$4,138 and waive any penalty and interest that may have accrued.

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.

AUTHORIZATION:

1. Authorize the acceptance of back rent in the amount of \$4,138 for the period of January 1, 2006 through December 31, 2009, and waive any penalty and interest that may have accrued.
2. Approve the revision of the minimum annual rent for Lease No. PRC 4082.1 from \$21,085 per year to \$22,938 per year, against five percent of annual gross income for boat berthing, 25 percent for vending and electronic game machines, 10 percent of all other gross income, and 1½ cents per gallon for fuel sales under 100,000

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gallons, and two cents per gallon for fuel sales over 100,000 gallons, effective January 1, 2011.

3. Increase the liability insurance from \$1,000,000 to \$3,000,000, effective January 1, 2011.
4. Increase the surety bond from \$25,000 to \$50,000, effective January 1, 2011.