

MINUTE ITEM
This Calendar Item No. 19
was approved as Minute Item
No. 19 by the State Lands
Commission by a vote of 3
0 at its 2/5/92
meeting.

CALENDAR ITEM

A 10
S 5

19

02/05/92
WP 5167 PRC 5167
Simmons
Atkins

RENEWAL OF COMMERCIAL LEASE

LESSEE:

Virgin Sturgeon, Inc.
1577 Garden Highway
Sacramento, California 95833

AREA, TYPE LAND AND LOCATION:

A 1.02-acre parcel of tide and submerged land in the
Sacramento River, Sacramento County.

LAND USE:

Commercial marina and restaurant.

TERMS OF EXISTING LEASE:

Initial period:
Fifteen (15) years beginning June 18, 1976 and ending
June 17, 1991 and one successive period of ten (10)
years.

Surety bond:
\$2,000.

Public liability insurance:
Combined single limit coverage of \$300,000.

Consideration:
\$2,520 per annum; five-year rent review.

TERMS OF PROPOSED NEW LEASE:

Initial period:
Ten (10) years beginning June 18, 1991.

Surety bond:
\$20,000.

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(ADDED pgs. 156-156.32)

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

CONSIDERATION:

Minimum Annual
Rental

\$8,900

Percentage of
Gross Income Rental

Six percent (6%) of berthing gross income; three percent (3%) of food and beverage gross income; twenty-five percent (25%) of gross income from vending and electronic game machines; six percent (6%) of income to Lessee from sublease approved by the Commission on October 23, 1986; ten percent (10%) of income from all other sources. Dredged material: \$0.25 per cubic yard, of material disposed on upland or used for private purposes,

with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:

Applicant is owner of a portion of adjacent upland property.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Processing fee has been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

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

AB 884:

N/A

OTHER PERTINENT INFORMATION:

1. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the

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CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 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 1, Existing Facilities (marina and restaurant), 2 Cal. Code Regs. 2905(a)(2) and Class 4, Minor Alteration to Land (maintenance dredging), 2 Cal. Code Regs. 2905(d)(4).

Authority: P.R.C. 21084, 14 Cal. Code Regs. 15300, and 2 Cal. Code Regs. 2905.

3. Lessee holds the existing lease through an assignment authorized by the Commission on September 28, 1983.
4. The lease provides for maintenance of the facility. Maintenance dredging required at the site shall not exceed a volume of 10,000 cubic yards per year, and shall be conducted within the seasonal constraints imposed by the California Department of Fish and Game.
5. Virgin Sturgeon, Inc. has submitted its application to renew its lease for a period of ten years, beginning June 18, 1991.
6. The Commission at its October 23, 1986 meeting approved a sublease between the Virgin Sturgeon, Inc. (Sublessor) and Riverbank Holding Company (Sublessee). Riverbank, in its construction of marina docks (PRC 6427), built beyond its own lease area and extended into unpermitted sovereign lands and also into the sovereign lands leased to the Virgin Sturgeon, Inc. The sublease approved by the Commission represents an agreement between the Virgin Sturgeon, Inc. and Riverbank to allow the latter party's use of the easterly 200 feet of lease PRC 5167. Subsequent to the Commission's approval of the sublease, problems arose related to interpretations of various portions of the sublease. On November 30, 1989, an amended and restated sublease was agreed to by Riverbank and the Virgin Sturgeon, Inc.. This amended and restated sublease is attached as Exhibit "C". Staff has

reviewed the amended and restated sublease and it appears the term has remained unchanged and coincides with the term of lease PRC 5167. The sublease base rental remains unchanged, but clarifying language has been added on rent adjustments. Liability insurance has been increased from \$500,000 to \$1,000,000 combined single limit. The disposition of improvements at the termination of lease PRC 5167 has been changed to allow Riverbank to negotiate their continued occupation of State sovereign land with the State Lands Commission.

EXHIBITS:

- A. Land Description
- B. Location Map
- C. Amended and Restated Sublease

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.
2. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES (MARINA AND RESTAURANT), 2 CAL. CODE REGS. 2905(a)(2), AND CLASS 4, MINOR ALTERATION TO LAND (MAINTENANCE DREDGING), 2 CAL. CODE REGS. 2905(d)(4).
3. AUTHORIZE ISSUANCE TO THE VIRGIN STURGEON, INC. OF A TEN-YEAR LEASE BEGINNING JUNE 18, 1991; IN CONSIDERATION OF THE RENTS AND PERCENTAGE RENTS, AS SET OUT IN THIS ITEM WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; AND LEASE SURETY BOND IN THE AMOUNT OF \$20,000, FOR CONTINUED USE AND MAINTENANCE OF AN EXISTING RESTAURANT AND COMMERCIAL MARINA ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
4. APPROVE THE AMENDED AND RESTATED SUBLEASE DATED NOVEMBER 30, 1989, ATTACHED HERETO AS EXHIBIT "C"; 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.

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EXHIBIT "A"

W 5167

LAND DESCRIPTION

A parcel of tide and submerged land in the State-owned bed of the Sacramento River, Sacramento County, State of California, being more particularly described as follows:

BEGINNING at the northwest corner of that parcel of land described in Individual Grant Deed from Jane E. McGrew to Vernon J. McGrew and Jane E. McGrew, his wife, as joint tenants, recorded in Book 71-08-25, page 364, Official Records of Sacramento County; thence South, along the west line of said parcel and its southerly prolongation 215 feet; thence S 78° 48' 30" E, 590 feet; thence North, 215 feet; thence N 78° 48' 30" W, 590 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Sacramento River.

END OF DESCRIPTION.

PREPARED DECEMBER, 1991 BY LLB

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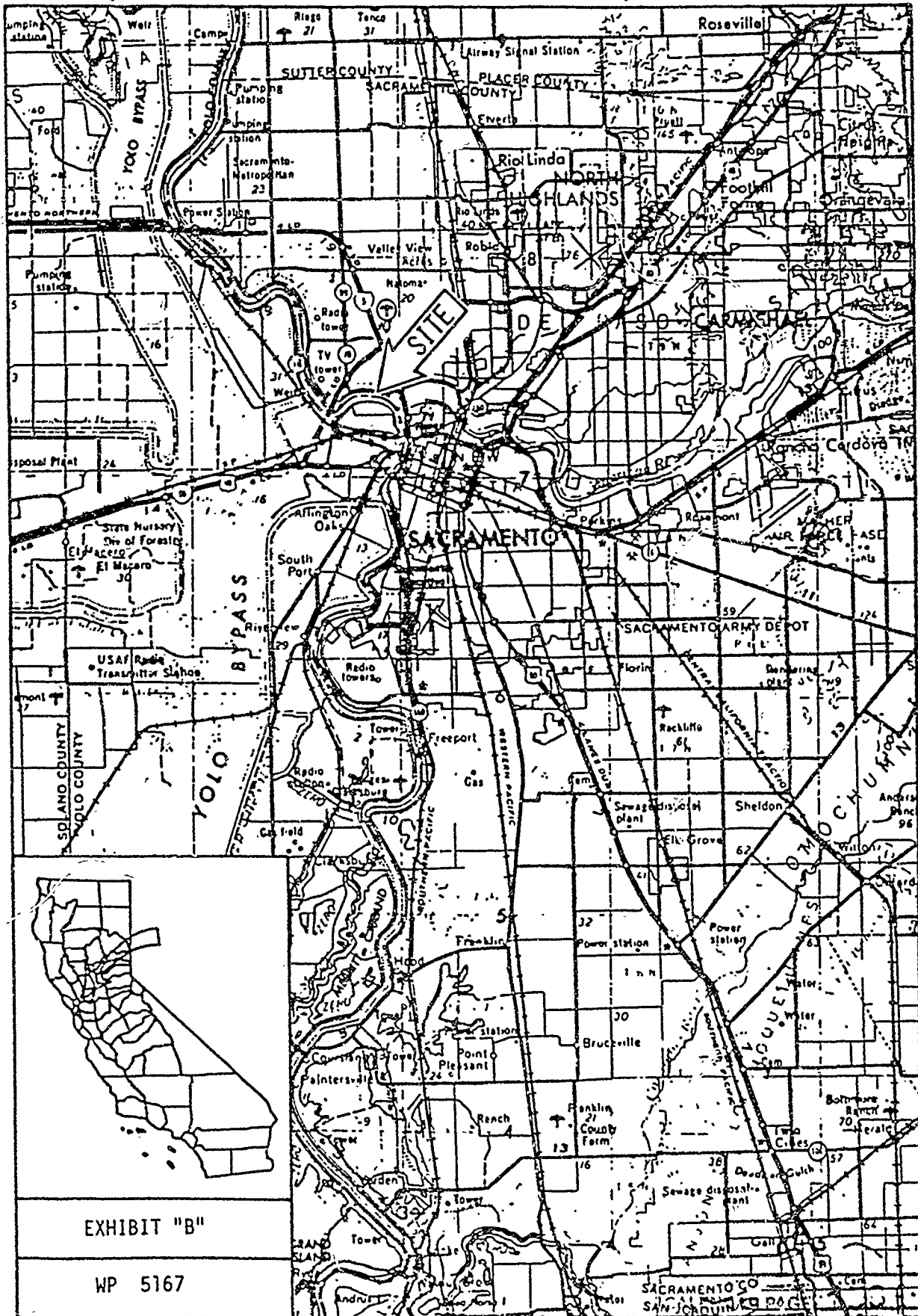


EXHIBIT "B"

WP 5167

SACRAMENTO CO SANITARIUM
SACRAMENTO RIVER

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EXHIBIT C

AMENDED AND RESTATED SUBLEASE AND EASEMENT AGREEMENT

This Amended and Restated Sublease and Easement Agreement ("Agreement"), dated for reference purposes only November 30, 1989, is entered into by and between THE VIRGIN STURGEON, INC., a California corporation (hereinafter referred to as "STURGEON"), and RIVERBANK HOLDING COMPANY, a general partnership (hereinafter referred to as "RIVERBANK"), and amends and completely supersedes the Sublease and Easement Agreement dated June 28, 1986.

WHEREAS, on July 22, 1976, the State of California, State Lands Commission, entered into a lease with John K. Johnson, Laraine (sic) C. Patching and John D. Cox for a 15-year lease with one ten-year option, commencing June 18, 1976, for the parcel of tide and submerged land described in Exhibit "A" attached hereto and incorporated by reference herein (hereinafter referred to as the "State Lands Property"), entitled Lease No. P.R.C. 5167.1, which is attached hereto as Exhibit "B" and incorporated by reference herein (hereinafter referred to as the "State Lands Lease");

WHEREAS, on January 28, 1983, the lessee's interest in the State Lands Lease was assigned by John K. Johnson, Laraine C. Patching and John D. Cox to STURGEON pursuant to a document entitled "State Lease Assignment, Acceptance and Approval," a copy of which is attached hereto as Exhibit "C" and incorporated by reference herein;

WHEREAS, STURGEON operates a commercial marina, including a restaurant and bar, on the State Lands Property leased pursuant

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to the State Lands Lease, the access to which property has been obtained by STURGEON pursuant to a lease entered into between STURGEON and Laraine C. Patching for property lying between the Garden Highway and the Sacramento River, with a width of approximately 125 feet, more fully described in the Patching Lease (hereinafter referred to as the "Patching Property");

WHEREAS, RIVERBANK is the owner in fee title of the parcel of real property lying between the Garden Highway and the Sacramento River, immediately east of the Patching Property, which parcel is approximately 800 feet in length and is upland from a portion of the State Lands Property (hereinafter referred to as the "Riverbank Property") on which RIVERBANK intends to construct, and has constructed certain improvements for the development of a marina and other improvements;

WHEREAS, RIVERBANK is desirous of subleasing the easterly 200' of the State Lands Property from STURGEON on the terms and conditions provided herein, and STURGEON is willing to consent to such sublease in order to guarantee future access to its commercial marina for delivery trucks, garbage collection and similar uses;

WHEREAS, the State Lands Lease is security for a loan made to STURGEON by Capital Bank of Commerce, which is secured by the Small Business Administration; and

WHEREAS, STURGEON, as a material consideration of this Agreement, shall obtain certain easements across the RIVERBANK Property;

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THEREFORE, the parties agree as follows:

I. SUBLEASE

1.1. Sublease. STURGEON hereby subleases to RIVERBANK, and RIVERBANK hereby subleases from STURGEON, the easterly 200 feet of the State Lands Property (hereinafter referred to as "Subleased Property").

1.2. Rental. RIVERBANK shall pay to STURGEON, without deduction, setoff, prior notice or demand, as rental, the sum of ONE THOUSAND DOLLARS (\$1,000.00) per month in advance on the first day of each month in lawful money of the United States of America, commencing on the first day of November, 1984, and continuing throughout the balance of the term (including option period, if exercised). The rent shall be paid to STURGEON at 1577 Garden Highway, Sacramento, California 95833, or at such other place or places as STURGEON may direct.

Said rent shall, from time to time, be increased during the term in either or both of the following events:

(a) In the event that STURGEON, from time to time during the term hereof, increases its rental rates for its own boat dockage from \$2.50 per foot per month (which is the rental in effect at the beginning of the term of this Agreement), the monthly rent payable hereunder shall, simultaneous with such increase, be increased to an amount calculated by multiplying \$1,000.00 by a fraction, the numerator of which is new rent being charged per foot per month by STURGEON for its own boat dockage and the denominator of which is \$2.50. For example, if STURGEON increases the rent on its own boat dockage to \$3.00 per foot, the

rent hereunder shall be increased to \$1,200.00 per month
\$1,000.00 x (\$3.00 - \$2.50).

(b) RIVERBANK shall pay to STURGEON any sums charged or assessed as percentage rent by the State Lands Commission against STURGEON on the State Lands Lease which are attributable to (1) the rent being paid to STURGEON by RIVERBANK pursuant to Section 1.2(a), or (2) the rents being collected by RIVERBANK from its subtenants on the Subleased Property. Percentage rent, as used herein, is any rent calculated or partially calculated on a percentage of sales, berthing rents or similar measure. On the reference date of this Agreement, no percentage rent is being charged by the State Lands Commission to STURGEON. In no event shall the additional rent payable under this Section 1.2(b) include any rent assessed as the result of STURGEON's restaurant operations or dockage on that portion of the State Lands Property which is not within the Subleased Property. The intent of this Section 1.2(b) is to have RIVERBANK pay to STURGEON, as additional rent, all sums which STURGEON is required to pay as percentage rent to the State Lands Commission, which is reasonably attributable to either the Subleased Property or RIVERBANK's operations thereon.

In no event shall the rent be less than ONE THOUSAND DOLLARS (\$1,000.00) per month.

1.3. Term. The term of this sublease shall be for a period of six (6) years, seven (7) months, and seventeen (17) days commencing November 1, 1984 and continuing until June 17, 1991. In the event that STURGEON exercises its one ten-year option to

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renew the State Lands Lease, this sublease at the option of RIVERBANK shall be extended for ten (10) additional years effective June 18, 1991 and ending on June 17, 2001.

1.4. Use. RIVERBANK shall use the Subleased Property only for dockage associated with a commercial marina or such other closely related lawful uses as may be approved by the State Lands Commission and other appropriate governmental agencies.

1.5. Indemnity. RIVERBANK shall indemnify, save harmless and, at the option of STURGEON, defend STURGEON, its officers, agents and employees against any and all claims, demands, losses, action, or liability of any kind which STURGEON or any of its officers, agents, or employees may sustain or incur or which may be imposed upon them or any of them arising out of or connected with the issuance of this sublease or the use of the Subleased Property by RIVERBANK.

1.6. Insurance. RIVERBANK shall provide liability insurance to insure against the above-described potential damages and/or liabilities, naming STURGEON as an additional insured, in a combined single limit of not less than ONE MILLION DOLLARS (\$1,000,000.00). The policy or policies shall specifically include the Subleased Property as a covered property, and a certificate or certificates of insurance must be provided by RIVERBANK to STURGEON. In the event that the State of California, State Lands Commission, requires that the insurance limits in the State Lands Lease be increased beyond ONE MILLION DOLLARS (\$1,000,000.00), RIVERBANK shall increase its insurance coverage to the same amount at the same time that the

State Lands Commission requires STURGEON to increase its insurance limits.

1.7. Incorporation of Master Lease Terms. This sublease is subject to all of the terms and conditions of the State Lands Lease and RIVERBANK shall comply with all of the obligations of STURGEON in the State Lands Lease to the extent that said terms and conditions are applicable to the Subleased Property pursuant to this sublease. RIVERBANK shall not commit or permit to be committed on the Subleased Property, any act or omission which shall violate any term or condition of the State Lands Lease. In the event of the termination of STURGEON's interest as lessee under the State Lands Lease for any reason, then this sublease shall terminate coincidentally therewith without any liability of STURGEON to RIVERBANK.

1.8. Improvements. RIVERBANK has relocated 154' of the easterly downstream inboard dockage of STURGEON to the downstream end of the existing outboard dockage of STURGEON, at RIVERBANK's expense. RIVERBANK has also relocated the pilings in connection therewith, and relocated and attached the electrical lighting and the firelines from the STURGEON pump, all at RIVERBANK's expense.

1.9. Alteration and Maintenance. RIVERBANK has installed dockage on the Subleased Property with the consent of STURGEON, and shall operate such dockage in accordance with the terms of the State Lands Lease and this Agreement. Any and all such improvements installed on the Subleased Property, shall be maintained at the sole cost and expense of RIVERBANK. The

parties agree that the improvements constructed to date by RIVERBANK on the Subleased Property do not unreasonably interfere with the ease and ability of boats using the STURGEON's dockage to enter and exist STURGEON's dockage. At no time shall RIVERBANK construct improvements on the Subleased Property which will in any reasonable manner interfere with the ease and ability of boats using the STURGEON's dockage to enter and exit STURGEON's dockage.

1.10. Default. The occurrence of any of the following shall constitute a default by RIVERBANK:

(a) Failure to pay rent when due, if the failure continues for ten days after notice has been given to RIVERBANK.

(b) Failure to perform any other provision of this Lease, if the failure to perform is not cured within 30 days after notice has been given to RIVERBANK. RIVERBANK shall not be in default of this Lease if RIVERBANK commences to cure the default within 15 days and diligently and in good faith continues to cure the default.

(c) Abandonment and vacation of the Subleased Property for a period of 15 days.

Notices given under this paragraph shall specify the alleged default and the applicable lease provisions, and shall demand that RIVERBANK perform the provisions of this sublease or pay the rent that is in arrears, as the case may be, within the applicable period of time, or quit the premises. No such notice shall be deemed a forfeiture or a termination of the Lease unless STURGEON so elects in the notice.

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The purpose of the notice requirement set forth in this paragraph is to extend the notice requirements of the unlawful detainer statutes of the State of California.

STURGEON shall have all of the remedies provided it by law in the event that RIVERBANK commits defaults under the provisions of this sublease.

If any installment of rent, or any other monetary sums due from RIVERBANK to STURGEON hereunder, are not received by STURGEON within ten (10) days of their due date, RIVERBANK shall pay to STURGEON an additional sum of ten percent (10%) of the overdue rent or other monetary consideration as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the cost that STURGEON will incur by reason of the late payment by RIVERBANK. Acceptance of any late charge shall not constitute a waiver of RIVERBANK'S default with respect to the overdue amount, or prevent STURGEON from exercising any of the other rights and remedies available to STURGEON.

1.11. Termination. If State Lands elects under Paragraph 28 of the State Lands Lease to have STURGEON remove any improvements, or portion thereof, from the Subleased Property, RIVERBANK agrees to remove the improvements on the Subleased Property at RIVERBANK'S sole expense and risk and restore the Subleased Property as nearly as possible to the condition existing prior to the erection or placement of the improvements thereupon. If RIVERBANK fails to remove such improvements or portion thereof as designated by State Lands and restore the

Subleased Property as nearly as possible to the condition existing prior to the erection or placement of the improvements thereupon, within ninety (90) days after the expiration or termination of the State Lands Lease, RIVERBANK agrees to pay for the cost of removing the improvements and restoring the Subleased Property as discussed hereinabove.

Nothing herein should be construed to limit RIVERBANK's right to request of State Lands that its improvements remain on the Subleased Property after termination of the State Lands Lease or to seek a modification of its lease with State Lands to include the subleased area after the expiration of the State Lands Lease.

II. EASEMENT

2.1. Temporary Parking Easement. As an independent covenant, RIVERBANK hereby grants to STURGEON a temporary right to unimproved parking for automobiles on the 200 westerly feet of the RIVERBANK Property, including access for customers of STURGEON'S commercial marina. This easement may be terminated upon 30 days written notice to STURGEON at such time as the 200 westerly feet of the RIVERBANK Property becomes reasonably necessary for construction and development by RIVERBANK. In no event may the temporary parking easement be revoked prior to April 1, 1987.

2.2. Access Easement.

(a) As an independent covenant, RIVERBANK grants to STURGEON, until such time as it commences construction on the RIVERBANK Property, a non-exclusive easement appurtenant for

ingress and egress over the existing roadway between the Garden Highway and the STURGEON Property, and a temporary right to unimproved parking for automobiles on the westerly 200 feet of the RIVERBANK Property.

(b) As an independent covenant, RIVERBANK, during the construction process, will grant to STURGEON a non-exclusive temporary easement reasonably necessary for the use herein provided at such other reasonable locations as may be determined by RIVERBANK consistent with the construction plans. It is understood, however, that, from time to time during the construction process, access may need to be temporarily blocked (cumulatively not to exceed thirty (30) days) in order to permit RIVERBANK to install its improvements and the permanent easement for STURGEON.

(c) As an independent covenant, RIVERBANK grants to STURGEON, a non-exclusive easement appurtenant for ingress and egress across that portion of the RIVERBANK Property shown on Exhibit "A" attached hereto and incorporated by reference herein. At such time as RIVERBANK improves the RIVERBANK Property with roadways, it shall, at RIVERBANK's expense, improve the easement area shown on Exhibit "A" with an access roadway built according to building codes in a good and workmanlike manner. If, prior to construction on the RIVERBANK Property, STURGEON desires to improve said easement, it may do so at its own expense, and shall be granted by RIVERBANK such temporary construction easements as will be reasonably necessary for that purpose. Notwithstanding anything to the contrary herein, the easement granted and

improvements built pursuant to this Subparagraph (c) shall be sufficient to accommodate the uses contemplated in this Agreement, including the width and angle of the roadway, and shall not result in fill on the Patching Property for the roadway unless agreed to in writing by STURGEON in advance of construction. Nothing herein shall be construed to require RIVERBANK to allow service vehicles to drive under any deck constructed on the RIVERBANK Property adjacent to the access roadway. Further, the access roadway need not be constructed to preclude service vehicles from backing down the access easement to the STURGEON Property, unless such is objected to or precluded by any governmental agency or entity. If such governmental agency or entity precludes service vehicles from backing down the access easement to the STURGEON Property, VIRGIN STURGEON will cooperate with RIVERBANK if RIVERBANK attempts to obtain a variance.

(d) The easements granted pursuant to this Section 2.2 shall be for the purpose of surface access to and from STURGEON's commercial marina for delivery, garbage collection and construction vehicles, and similar uses, but shall not include any right for use by the general public, customers or clients of STURGEON.

(e) The easements granted in this Section 2.2 shall commence immediately and shall terminate upon termination of the State Lands Lease (including any option period thereof), if such Lease is not renewed by STURGEON within 90 days of termination.

2.3. Easement Provisions. The grant of easements contained in Paragraphs 2.1 and 2.2 are across RIVERBANK's property in its present condition, and RIVERBANK shall not, except as otherwise provided, be required to make any improvements, either for the purposes of parking or for the purposes of access, and any improvements desired to be made by STURGEON will be made by STURGEON, subject to the approval of RIVERBANK, which approval shall not be unreasonably withheld. If RIVERBANK desires to alter the configuration of the access easement(s) shown on Exhibit "A," RIVERBANK will provide to STURGEON, prior to commencement of said improvements, engineering and/or architectural drawings of such easement and the improvements thereon to be located on RIVERBANK's property for STURGEON's approval, which approval shall not be unreasonably withheld. In no event, however, shall such alterations unreasonably restrict the intended use of the easements by STURGEON, except during the construction thereof. Should any action or inaction by RIVERBANK in any manner render said easements unusable by STURGEON for the purposes set forth in Paragraph 2.2 hereof, such action or actions shall be considered a default under the Sublease pursuant to Section 1.10 hereof.

2.4. Indemnity Respecting Easements. STURGEON shall indemnify, save harmless and, at the option of RIVERBANK, defend RIVERBANK, its partners, agents and employees against any and all claims, demands, losses, action, or liability for injury or damages incurred by STURGEON or by any other party or any member of the public, including, but not limited to, any personal injuries or property damages, arising out of the

right to utilize the Riverbank Property pursuant to paragraphs 2.1, 2.2 or 2.4 hereof. STURGEON will further provide liability insurance to insure against any of the above-described potential damages and/or liabilities, naming RIVERBANK as an additional insured, in a combined single limit amount of not less than \$1,000,000.00. RIVERBANK may from time to time require STURGEON to provide reasonable proof that said insurance is in existence, and STURGEON'S failure to provide such proof upon twenty (20) days' written notice will automatically act as termination of the easement.

2.5. Permanent Parking. In addition to the foregoing, STURGEON and RIVERBANK agree to continue to negotiate in good faith in an effort to reach an agreement regarding provisions for a permanent parking easement for STURGEON'S customers and employees on the RIVERBANK Property. STURGEON agrees to pay to RIVERBANK a reasonable rental rate each month for any future permanent parking, when obtained.

III. MISCELLANEOUS

3.1. Sewer Attachment. As a material consideration of the parties entering into this Agreement, RIVERBANK agrees to construct the sewer line in its adjacent development to include the capacity for adding the commercial marina operated by STURGEON to RIVERBANK'S sewer line. Said increased capacity shall be installed at the expense of RIVERBANK, but in the event that STURGEON elects or is required to hook up to said sewer line by the City of Sacramento or the State of California, such connection will be at the expense of STURGEON.

3.2. Approval of State Lands Commission. The original Sublease and Easement Agreement dated June 28, 1986 was approved by the State Lands Commission. Should the State Lands Commission require approval of these amendments and, for some reason, not approve the amendments, neither party shall be required to fulfill any future obligations arising under this Agreement, except for hold harmless, indemnity and defense provisions, and the Sublease, right to parking and easements granted described above shall all be terminated, with neither party having any further rights or duties to perform under this Agreement. In such event, if the State Lands Commission requires removal of the dockage on the Subleased Land, RIVERBANK shall remove all such dockage at its expense. Either party may appeal any State Lands Commission requirement to remove the dockage on the Subleased Land.

3.3. Competition. Nothing herein shall prohibit RIVERBANK from competing with STURGEON or others to lease the Subleased Property from State Lands after the conclusion of the term (including options) of the STURGEON State Lands Lease.

3.4. Invalid Provisions. In the event that any provision, sentence, clause or other portion of this Agreement is ruled invalid by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

3.5. Binding Effect. This instrument inure to the benefit of their respective heirs, personal representatives, successors and assigns of the parties hereto.

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3.6. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class certified mail. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be addressed to the other party at the address set forth below:

RIVERBANK HOLDING COMPANY
1371 Garden Highway, Suite 200
Sacramento, California 95833

VIRGIN STURGEON, INC.
1577 Garden Highway
Sacramento, California 95833

With a Copy To:

TRAINOR, ROBERTSON, SMITS & WADE
Post Office Box 255824
Sacramento, California 95865

ATTENTION: Charles W. Trainor

3.7. Bankruptcy. If either party hereto files a petition in bankruptcy under any provision of the Bankruptcy Act, or if an involuntary petition in bankruptcy is filed against any party by a committee of creditors, this Agreement may be terminated in its entirety by the other party upon ten (10) days written notice to the insolvent or bankrupt party.

3.8. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements or understandings, oral or written, between the parties hereto, relating to the subject matter

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contained in this Agreement, which are not fully described herein. Any oral representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by the party to be charged.

3.9. Attorneys' Fees. In the event of any controversy, claim or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable attorneys' fees, expenses and costs

3.10. First Right of Refusal. If and when during the term of the Sublease contained herein, RIVERBANK has constructed its proposed condominiums on the Riverbank Property, RIVERBANK hereby grants STURGEON the first right of refusal to purchase the westerly-most condominium upon 15 days written notice prior to its sale to any other party.

3.11. Ratification. As of the date of execution of this Agreement and upon payment of the rents due between the beginning of the Term and the date of execution, the parties hereby ratify all acts performed between those dates regarding this Agreement as being consistent with the terms of this Agreement and affirm that this Agreement became effective on November 1, 1984.

3.12. Signatures. Each of the undersigned parties hereby represents and warrants personally that it has the authority to execute this document on behalf of the respective

below-named entities, and that no other signatures are required to make this a valid and binding Agreement. The parties may execute this Agreement in counterpart, and at such time as all counterparts have been signed by the parties hereto and notarized, it shall constitute a binding and accepted agreement as if all parties had signed the same original document.

3.13. Assignment. This Agreement shall be binding on the heirs, successors and assigns of the parties hereto.

RIVERBANK HOLDING COMPANY,
a general partnership

Dated: _____, 1990

By: _____
THOMAS WESTLEY, Partner

Dated: JAN 6 1990, 1990

By: [Signature]
ERED WYNBRANDT, Partner

Dated: JAN 6 1990, 1990

By: [Signature]
PETRA WYNBRANDT, Partner

Dated: _____, 1990

By: _____
BARRETT ANDERSON, Partner

Dated: _____, 1990

By: _____
ROBERTA ANDERSON, Partner

Dated: _____, 1990

By: _____
MILES TREASTER, Partner

Dated: _____, 1990

By: [Signature]
ROLANDO CALPO, Partner

Dated: _____, 1990

By: _____
SUSANNE WESTLEY, Partner

below-named entities, that no other signature is required to make this a valid and binding Agreement. The parties may execute this Agreement in counterpart, and at such time as all counterparts have been signed by the parties hereto and notarized, it shall constitute a binding and accepted agreement as if all parties had signed the same original document.

3.13. Assignment. This Agreement shall be binding on

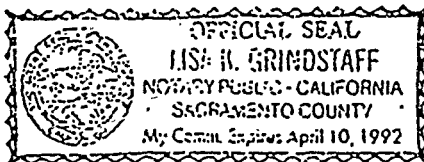
STATE OF CALIFORNIA

COUNTY OF Sacramento } ss.

On this 17 day of January, in the year 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared

Irak Wijnbrandt, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the General Partnership named therein, and acknowledged to me that the General Partnership executed it.

WITNESS my hand and official seal.



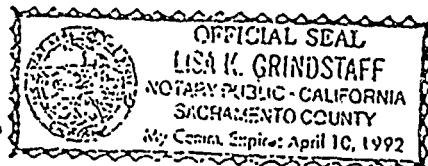
Lisa K. Grindstaff
Notary Public in and for said State.

ACKNOWLEDGMENT - General or Limited Partnership - Wolcotts Form 236CA - Rev. 5-82
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_____ personally appeared

Irak Wijnbrandt, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the General Partnership named therein, and acknowledged to me that the General Partnership executed it.

WITNESS my hand and official seal.



Lisa K. Grindstaff
Notary Public in and for said State.

ACKNOWLEDGMENT - General or Limited Partnership - Wolcotts Form 236CA - Rev. 5-82
© 1987 WOLCOTT'S, INC. (price class B 2)

COUNTY OF Sacramento } ss.

On this 10th day of January, in the year 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared

Ritanda Lopez, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the General Partnership named therein, and acknowledged to me that the General Partnership executed it.

WITNESS my hand and official seal



Lisa K. Grindstaff
Notary Public in and for said State.

CALENDAR # 153.23

ACKNOWLEDGMENT - General or Limited Partnership - Wolcotts Form 236CA - Rev. 5-82
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below-named entities, and that no other signatures are required to make this a valid and binding Agreement. The parties may execute this Agreement in counterpart, and at such time as all counterparts have been signed by the parties hereto and notarized, it shall constitute a binding and accepted agreement as if all parties had signed the same original document.

3.13. Assignment. This Agreement shall be binding on the heirs, successors and assigns of the parties hereto.

RIVERBANK HOLDING COMPANY,
a general partnership

Dated: _____, 1990 By: THOMAS WESTLEY, Partner

Dated: _____, 1990 By: FRED WYNBRANDT, Partner

Dated: _____, 1990 By: PETRA WYNBRANDT, Partner

Dated: _____, 1990 By: BARRETT ANDERSON, Partner

Dated: _____, 1990 By: ROBERTA ANDERSON, Partner

STATE OF CALIFORNIA

COUNTY OF Sacramento } ss.

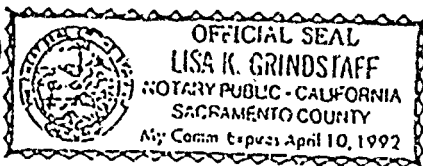
On this _____ day of January in the year 1990 before me, the undersigned, a Notary Public in and for said State, personally appeared

Thomas Westley

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the General Partnership named therein, and acknowledged to me that the General Partnership, executed on page 4 of said instrument.

WITNESS my hand and official seal.

MINUTE PAGE 487



Lisa K. Grindstaff
Notary Public in and for said State

below-named entities, and that no other signatures are required to make this a valid and binding Agreement. The parties may execute this Agreement in counterpart, and at such time as all counterparts have been signed by the parties hereto and notarized, it shall constitute a binding and accepted agreement as if all parties had signed the same original document.

3.13. Assignment. This Agreement shall be binding on the heirs, successors and assigns of the parties hereto.

RIVERBANK HOLDING COMPANY,
a general partnership

Dated: 1/10/, 1990 By: Thomas Westley
THOMAS WESTLEY, Partner

Dated: _____, 1990 By: _____
FRED WYNBRANDT, Partner

Dated: _____, 1990 By: _____
PETRA WYNBRANDT, Partner

Dated: _____, 1990 By: _____
BARRETT ANDERSON, Partner

Dated: _____, 1990 By: _____
ROBERTA ANDERSON, Partner

Dated: 1-9, 1990 By: Miles Treaster
MILES TREASTER, Partner

Dated: _____, 1990 By: _____
ROLANDO CALPO, Partner

Dated: _____, 1990 By: _____
SUSANNE WESTLEY, Partner

below-named entities, and that no other signatures are required to make this a valid and binding Agreement. The parties may execute this Agreement in counterpart, and at such time as all counterparts have been signed by the parties hereto and notarized, it shall constitute a binding and accepted agreement as if all parties had signed the same original document.

3.13. Assignment. This Agreement shall be binding on the heirs, successors and assigns of the parties hereto.

RIVERBANK HOLDING COMPANY

STATE OF CALIFORNIA

COUNTY OF Sacramento } ss.

On this 10th day of January, in the year 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared

Thomas Wittling personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the General Partnership named therein, and acknowledged to me that the General Partnership executed it.

WITNESS my hand and official seal.

Lisa K Grindstaff
Notary Public in and for said State.



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STATE OF CALIFORNIA

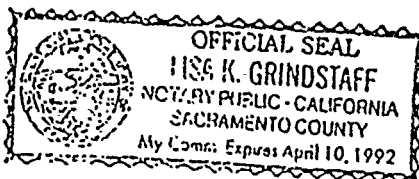
COUNTY OF Sacramento } ss.

On this 13th day of January, in the year 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared

Michelle Tranter personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the General Partnership named therein, and acknowledged to me that the General Partnership executed it.

WITNESS my hand and official seal.

Lisa K Grindstaff
Notary Public in and for said State.



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CALENDAR PAGE 100 .26
WHU 405
MINUTE PAGE 10390

below-named entities, and that no other signatures are required to make this a valid and binding Agreement. The parties may execute this Agreement in counterpart, and at such time as all counterparts have been signed by the parties hereto and notarized, it shall constitute a binding and accepted agreement as if all parties had signed the same original document.

3.13. Assignment. This Agreement shall be binding on the heirs, successors and assigns of the parties hereto.

RIVERBANK HOLDING COMPANY,
a general partnership

Dated: _____, 1990

By: _____
THOMAS WESTLEY, Partner

Dated: _____, 1990

By: _____
FRED WYNBRANDT, Partner

Dated: _____, 1990

By: _____
PETRA WYNBRANDT, Partner

Dated: Jan 5, 1990

By: Barnett Anderson
BARRETT ANDERSON, Partner

Dated: Jan 5, 1990

By: Roberta Anderson
ROBERTA ANDERSON, Partner

Dated: _____, 1990

By: _____
MILES TREASTER, Partner

Dated: _____, 1990

By: _____
ROLANDO CALPO, Partner

Dated: _____, 1990

By: _____
SUSANNE WESTLEY, Partner

below-named entities, and that no other signatures are required to make this a valid and binding Agreement. The parties may execute this Agreement in counterpart, and at such time as all counterparts have been signed by the parties hereto and notarized, it shall constitute a binding and accepted agreement as if all parties had signed the same original document.

3.13. Assignment. This Agreement shall be binding on the heirs, successors and assigns of the parties hereto.

RIVERBANK HOLDING COMPANY,
a general partnership

Dated: _____ 1990

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On this 5th day of January in the year 1990 before me, the undersigned, a Notary Public in and for said State, personally appeared

BARRETT ANDERSEN

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the _____ Partnership named therein, and acknowledged to me that the _____ Partnership executed it.

WITNESS my hand and official seal.

[Signature]
Notary Public in and for said State.

SHOW DOCUMENT - General or Limited Partnership - Wolcotts Form 236CA - Rev. 5-82
1982 WOLCOTTS INC. (DICKENS 8-7)

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On this 5th day of January in the year 1990 before me, the undersigned, a Notary Public in and for said State, personally appeared

ROBERTA ANDERSEN

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the _____ Partnership named therein, and acknowledged to me that the _____ Partnership executed it.

WITNESS my hand and official seal.

[Signature]
Notary Public in and for said State.

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MINUTE PAGE 491

SHOW DOCUMENT - General or Limited Partnership - Wolcotts Form 236CA - Rev. 5-82
1982 WOLCOTTS INC. (DICKENS 8-7)

By: ROGER SCOTT PROPERTIES, a
California limited partnership,
Partner

Dated: _____, 1990

By: _____
ROGER SCOTT
General Partner

By: SIERRA NATIONAL INVESTMENT, a
California general partnership,
Partner

Dated: _____, 1990

By: _____
KIP SKIDMORE
Managing General Partner

VIRGIN STURGEON, INC., a
California corporation

Dated: Jan 4, 1990

By: Laraine C. Patching
LARAINE C. PATCHING
President

STATE OF CALIFORNIA
COUNTY OF SACRAMENTO ss.

On this 4th day of January, 1990, in the year
Heidi L. Morris, before me,
duly licensed and sworn, personally appeared LARAINE C. PATCHING



personally known to me (or proved to me on the basis of satisfactory evidence)
to be the person who executed the within instrument as President
or on behalf of the corporation therein named and acknowledged to me that
such corporation executed the within instrument pursuant to its by-laws or a
resolution of its board of directors.

IN WITNESS WHEREOF I have hereunto set my hand and affixed
my official seal in the State of Calif., County of Sacramento

Heidi L. Morris, on the date set forth above in this certificate.
Notary Public, State of California
My commission expires 3/8/91

This document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The printer does not make any warranty either express or implied as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Cowdery's Form No. 28 — Acknowledgement to Notary Public —
Corporation (C. C. Secs. 1190-1190.1) — (Rev. 1/83)

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MINUTE PAGE 492

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By: ROGER SCOTT PARTNERS, a
California limited partnership,
Partner

Dated: January 11, 1990

By: [Signature]
ROGER SCOTT
General Partner

By: SIERRA NATIONAL INVESTMENT, a
California general partnership,
Partner

Dated: January 5, 1990

By: [Signature]
KIP SKIDMORE
Managing General Partner

VIRGIN STURGEON, INC., a
California corporation

Dated: _____, 1990

By: _____
LARAINE C. PATCHING
President

STATE OF CALIFORNIA

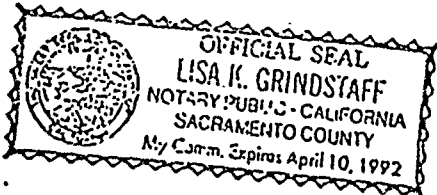
COUNTY OF Sacramento } ss.

On this 11th day of January, in the year 1990,
before me, the undersigned, a Notary Public in and for said State, personally appeared

Roger Scott

_____, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person who executed the
within instrument on behalf of the General Partnership named therein, and acknow-
ledged to me that the General Partnership executed it.

WITNESS my hand and official seal.



Lisa K Grindstaff
Notary Public in and for said State.

ACKNOWLEDGMENT - General or Limited Partnership - Wolcotts Form 236CA - Rev. 5-82
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By: ROGER SCOTT PROPER, ES. a
California limited partnership,
Partner.

Dated: _____, 1990

By: _____
ROGER SCOTT
General Partner

By: SIERRA NATIONAL INVESTMENT, a
California general partnership,
Partner

Dated: January 5, 1990

By: [Signature]
KIP SKIDMORE
Managing General Partner

VIRGIN STURGEON, INC., a
California corporation

Dated: _____, 1990

By: _____
LARAINE C. PATCHING
President

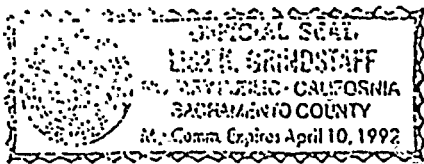
STATE OF CALIFORNIA

COUNTY OF Sacramento } ss.

On this 5th day of January, in the year 1990,
before me, the undersigned, a Notary Public in and for said State, personally appeared
Kip Skidmore

_____, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person who executed the
within instrument on behalf of the General Partnership named therein, and acknow-
ledged to me that the General Partnership executed it.

WITNESS my hand and official seal.

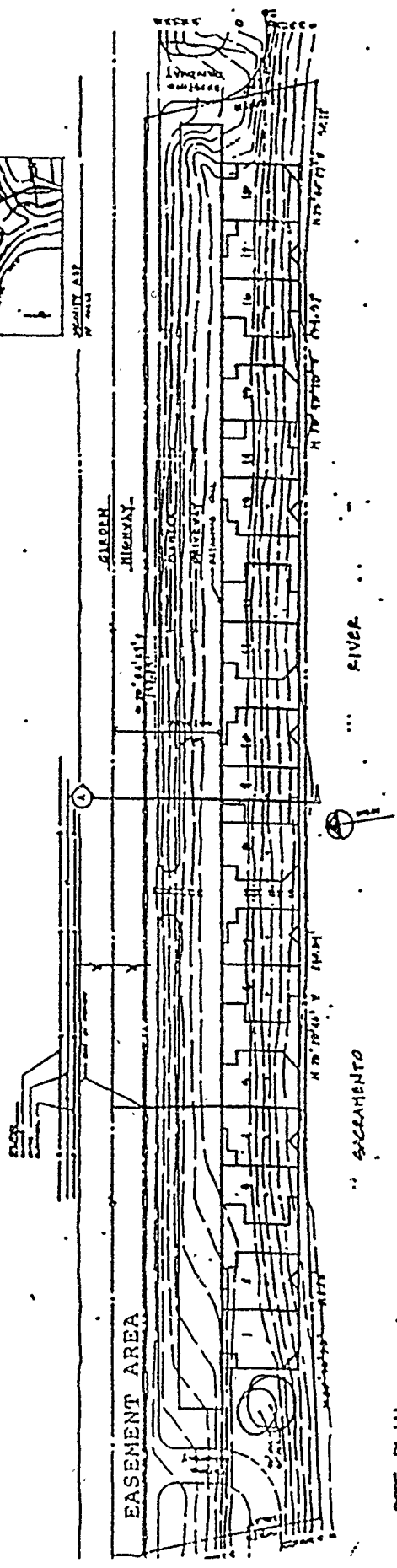
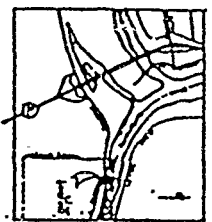


Lora K Grindstaff
Notary Public in and for said State.

ACKNOWLEDGMENT—General or Limited Partnership—Works Form 236CA—Rev. 5-82
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CALENDAR PAGE 153.31
MINUTE PAGE 494
WHD
010390

439002003T
112889



PROJECT DESCRIPTION
 This project is a...
 The project consists of...
 The project is located...
 The project is owned...
 The project is being...
 The project is being...

SITE PLAN

CALENDAR PAGE 150.32

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