

**CALENDAR ITEM
C30**

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03/25/08
WP 5110.1
V. Caldwell

**CONSIDER AN ASSIGNMENT AND AMENDMENT OF A GENERAL LEASE –
COMMERCIAL USE AND REVISION OF RENT**

LESSEES/ASSIGNORS:

Hugh Turner and Carrol A. Turner
169 N. Valentine Avenue
Fresno, California 93706

ASSIGNEE/SUBLESSOR:

Hugh Turner

SUBLESSEE:

Alamar Restaurant & Marina, LLC
5999 Garden Highway
Sacramento, California 95837

AREA, LAND TYPE, AND LOCATION:

1.604 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 an existing commercial marina, known as Alamar Marina, with 25 covered boat berths, side ties, restaurant/bar operation, fuel dock, vending and coin operated machines.

LEASE TERM:

30 years, beginning January 1, 1982.

CONSIDERATION:

This lease provides that Lessor may modify the rent periodically during the lease term. Pursuant to this provision, staff has conducted a review of the rent under this lease, and recommends that the minimum annual rent be revised from \$1,800 per year to \$8,839 per year against a percentage of gross receipts, as authorized in the Lease, effective January 1, 2009.

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PROPOSED AMENDMENT:

Include security provisions that will allow that no more than two navigable vessels be used as residences for security purposes only and provisions that the Lessee must implement the Commission's "Best Management Practices (BMPs) for Marina Owners/Operators", incorporate the Commission's "BMPs for Berth Holders and Boaters" into Lessee's berth rental agreements, and include the additional BMPs the Commission subsequently deems appropriate for either of the above categories. In addition to the inclusion of the BMPs for Berth Holders and Boaters into the berth rental agreements, the Lessee shall post such publication in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease amendment and on each successive third anniversary thereafter, a report on compliance with all BMPs.

All other terms and conditions of the lease shall remain in effect without amendment.

SPECIFIC LEASE PROVISIONS:

Insurance:

\$1,000,000 combined single limit coverage

Bond:

\$20,000

OTHER PERTINENT INFORMATION:

1. Assignee owns the uplands adjoining the lease premises.
2. On April 27, 1982, the Commission authorized a General Lease – Commercial Use to Hugh Turner and Carrol A. Turner. That lease will expire on December 31, 2011. On July 8, 1998, the upland property was transferred to Hugh Turner. The Lessees are requesting that the Commission approve the assignment of Lease No. PRC 5110.1.
3. On April 14, 2003, Hugh Turner formed Alamar Restaurant & Marina, LLC as the operator of the marina and he is now seeking the Commission's approval of a sublease of the lease premises to Alamar Restaurant & Marina, LLC, as required by the Lease.
4. Alamar Marina has experienced vandalism, boats taking on water, accidental fires, etc., which have required immediate action for the overall

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safety and security of the facility and the public. These factors support a limited and controlled presence of navigable vessels used as residences for 24-hour security purposes. No more than two vessels used for security purposes are recommended and will be located in strategically designated slips subject to the approval of Commission staff. These security vessels will be required to leave the marina waters at least once for a minimum of six hours in each 90-day period and the Lessee is required to submit an annual log to the staff of the Commission. In addition, the Lessee has agreed to additional lease provisions for the implementation of Best Management Practices on the Lease Premises.

5. 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.

6. 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.

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 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.

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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 ASSIGNMENT OF LEASE NO. PRC 5110.1, A GENERAL LEASE - COMMERCIAL USE, OF SOVEREIGN LANDS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, FROM HUGH TURNER AND CARROL A. TURNER TO HUGH TURNER, EFFECTIVE MARCH 25, 2008.
2. APPROVE BY ENDORSEMENT A SUBLEASE FROM HUGH TURNER TO ALAMAR RESTAURANT & MARINA, LLC, EFFECTIVE MARCH 25, 2008.
3. APPROVE THE REVISION OF RENT FOR LEASE NO. PRC 5110.1 TO REVISE THE MINIMUM ANNUAL RENT FROM \$1,800 PER YEAR TO \$8,839 PER YEAR AGAINST THE PERCENTAGE OF GROSS RECEIPTS, EFFECTIVE JANUARY 1, 2009.
4. AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 5110.1, A GENERAL LEASE – COMMERCIAL USE, OF LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE MARCH 25, 2008, TO INCLUDE SECURITY PROVISIONS WHICH WILL ALLOW NO MORE THAN TWO NAVIGABLE VESSELS TO BE USED FOR SECURITY PURPOSES AND TO ADD BEST MANAGEMENT PRACTICE PROVISIONS, AS SET FORTH IN THE LEASE AMENDMENT WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION. ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.