

**CALENDAR ITEM
C09**

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S 6

05/24/12
PRC 5188.1
V. Caldwell

GENERAL LEASE – COMMERCIAL USE

APPLICANTS/SUBLESSORS:

Steven G. Kuhn and Carol A. Kuhn, Trustees of the Kuhn and Van Bruggen Declaration of Trust established February 19, 1998

SUBLESSEE:

Hanalei Bay Foundation, LLC, dba
Coastal Servicing
1951 Garden Highway
Sacramento, California 95833

AREA, LAND TYPE, AND LOCATION:

0.30 acres, more or less, of sovereign land in the Sacramento River, adjacent to 1951 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

LEASE: Continued use, maintenance, and operation of an existing commercial marina, known as Juluka Landing, consisting of a floating boat dock used for side tie berthing, a boat lift, nine pilings, 12 electric and water outlets, and a gangway.

SUBLEASE: Operation and maintenance of the commercial dock facilities.

LEASE TERM:

15 years, beginning July 1, 2012.

CONSIDERATION:

\$2,600 per year, with annual adjustment using the Consumer Price Index (CPI) established by the California Department of Industrial Relations "California Consumer Price Index (1955-2011), All Urban Consumers, All Items 1982-1984 = 100", as provided in the lease.

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SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance of no less than \$2,000,000

Surety:

Surety bond or other security in the amount of \$10,000.

Other:

The lease contains provisions that: The Lessee must implement the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Berth Holders and Boaters", including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. The Lessee shall provide the Commission, on the first anniversary of the lease and on every third anniversary thereafter, a report on compliance with all BMPs.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On June 29, 1982, the Commission authorized a General Lease – Commercial Use to Westley N. Dwyer and Sophia M. Dwyer. On September 19, 2000, Steven G. Kuhn and Carol A. Kuhn purchased the facility and, on February 5, 2001, the Commission authorized an assignment of the lease to Steven G. Kuhn and Carol A. Kuhn, Trustees of the Kuhn and Van Bruggen Declaration of Trust established February 19, 1998. The lease expires on June 30, 2012. The Applicants are applying for a new General Lease – Commercial Use and approval of a sublease.
3. The Applicants have delegated the operation of Juluka Landing through an operating agreement to Hanalei Bay Foundation, LLC, dba Coastal Servicing. Staff has reviewed the operating agreement and recommends approval of a sublease.
4. The marina is vulnerable to theft and property destruction and has experienced vandalism, accidents, fires, and other on-the-water problems, requiring immediate action for the overall safety and security of the facility and the public. These factors support a limited and controlled presence of one or more navigable vessels to be occupied on a 24-hour basis for security purposes. Taking into account the size and design of the marina, staff is recommending that no more than one navigable vessel be used for security purposes. This vessel will be located in a strategically designated slip subject to the approval of Commission staff. The security vessel will be required to leave the marina waters at least once for a minimum of six

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hours in each 90-day period and the Applicants are required to submit an annual log to Commission staff. In addition, the Applicants have agreed to additional lease provisions for the implementation of Best Management Practices on the Lease Premises.

5. **Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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

6. **Sublease:** The staff recommends that the Commission find that the subject sublease does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. 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. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a

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categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Sublease: Find that the subject sublease is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

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 section 6370 et seq.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Commercial Use to Steven G. Kuhn and Carol A. Kuhn, Trustees of the Kuhn and Van Bruggen Declaration of Trust established February 19, 1998, beginning July 1, 2012, for a term of 15 years, for the continued use, maintenance, and operation of an existing commercial marina known as Juluka Landing, consisting of a floating boat dock used for side tie berthing, a boatlift, nine pilings, 12 electric and water outlets, and a gangway, as described on Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$2,600 adjusted annually using the Consumer Price Index, as provided in the lease; liability insurance in the amount of no less than \$2,000,000; and a surety in the amount of \$10,000.
2. Approve by endorsement a sublease from Steven G. Kuhn and Carol A. Kuhn, Trustees of the Kuhn and Van Bruggen Declaration of Trust established February 19, 1998, to Hanalei Bay Foundation, LLC, dba Coastal Servicing, for a term of 15 years, effective July 1, 2012.

EXHIBIT A

PRC 5188.1

LAND DESCRIPTION

A parcel of tide and submerged land in the State-owned bed of the Sacramento River, situated adjacent to and southerly of fractional Section 17, T9N, R4E, MDM, Sacramento County, State of California, more particularly described as follows:

BEGINNING at the southwest corner of Lot 8 of the Natomas Riverside Subdivision No. 1, as called for in Grant Deed recorded in Volume 3709, page 45, Sacramento County records; thence S 29°47'40" E 70 feet; thence N 66°12'52" E 382 feet; thence N 29°44'34" W 110 feet; thence S 60°12'20" W 380 feet to the point of beginning.

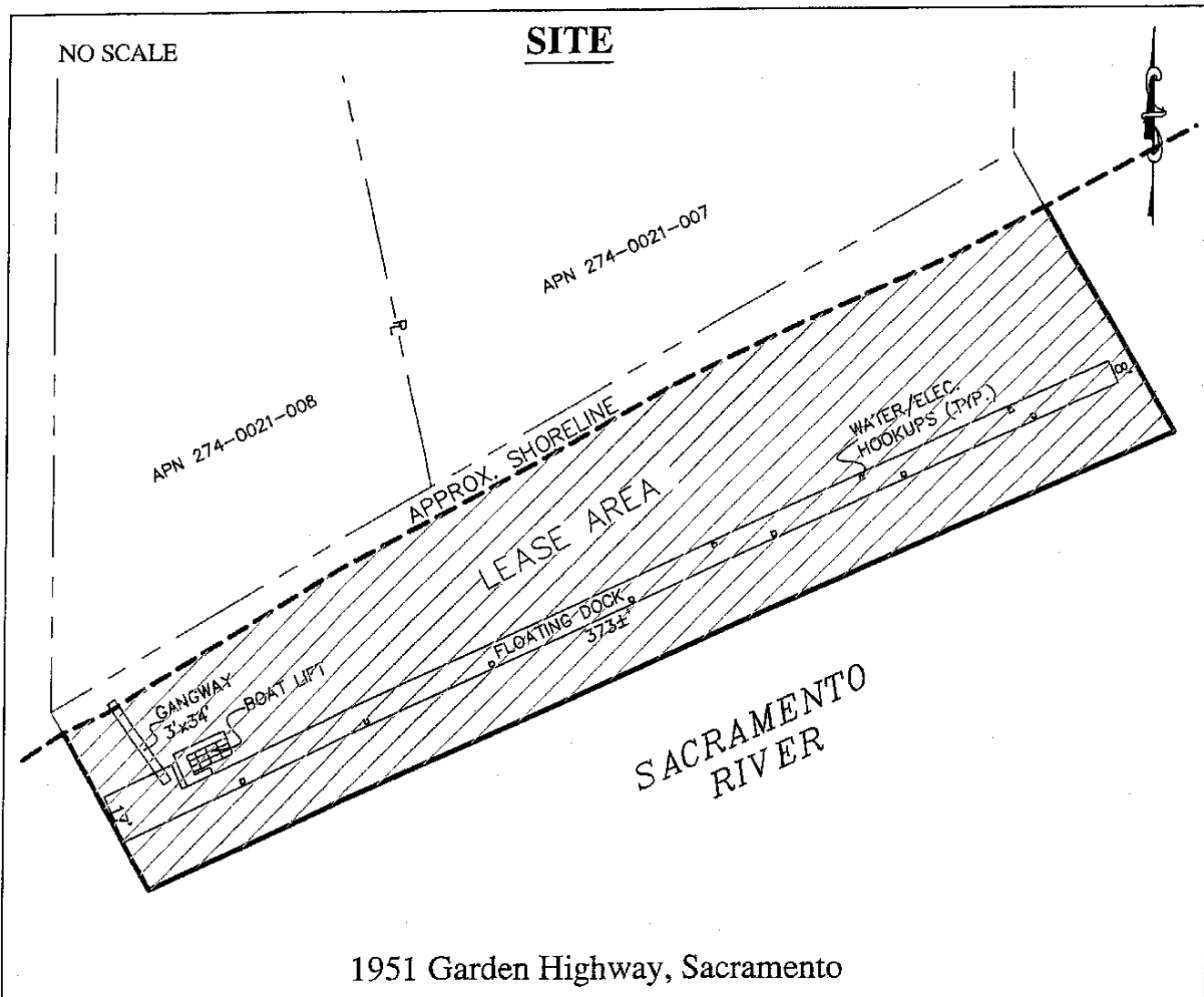
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Sacramento River.

END OF DESCRIPTION

REVISED BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT 4/6/12. ORIGINAL DESCRIPTION PREPARED BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR 2/8/82 AS FOUND IN PRC FILE 5188, CALENDAR ITOM C04.

PREPARED 3/19/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





LOCATION

NO SCALE

MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the 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 any other property.

Exhibit B
 PRC 5188.1
 KUHN
 APN 274-0021-007 & 008
 GENERAL LEASE -
 COMMERCIAL USE
 SACRAMENTO COUNTY

SITE

MJF 4/6/12