

**CALENDAR ITEM
C15**

A 8
S 5

12/05/12
PRC 6372.1
V. Caldwell

AMENDMENT OF LEASE

APPLICANT/LESSEE:

Sherwood Harbor Marina, LLC

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 3505 South River Road, near the city of West Sacramento, Yolo County.

AUTHORIZED USE:

Continued use and maintenance of an existing commercial marina, known as Sherwood Harbor Marina, consisting of 2,976 lineal feet of side-tie dockage, 34 finger berths consisting of six 16-foot, twenty 24-foot, six 28-foot, and two 30-foot berths; gangway; bait shop/snack shed; landing dock; fuel dock with one dispenser; sewage pump-out station; two portable restrooms; three floating storage sheds; harbor master's residence; and 37 pilings.

LEASE TERM:

20 years, beginning November 1, 2004.

CONSIDERATION:

Minimum annual rent of \$6,015 per year against five percent of the gross income derived from the rental of boat docks and moorings, one and one-half percent of gross income derived from the operation of the bait shop/snack shop, one-half of one percent of the total sales price derived from boat sales and servicing of new and used yachts, boats, personal watercraft, and related equipment; one and one-half cents per gallon of fuel sold up to a maximum of 100,000 gallons and two cents per gallon thereafter, and 10 percent of gross income derived from all other unauthorized activities conducted on or over the Lease Premises; minimum annual rent and percentage annual rent combined and paid in 12 equal monthly installments.

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PROPOSED AMENDMENT:

Amend the Lease as follows:

1. Authorize the after-the-fact removal of 33 existing finger docks, three floating storage buildings, two floating restrooms, patio dock with fuel dispenser, gangway, and landing; conversion of the snack shop into a storage facility, replacement of wood docks with concrete deck panel docks; construction of an Americans with Disabilities Act (ADA) gangway, fuel dock with one marine fuel dispenser, gas and diesel lines, steel fuel piping, store with office and attached patio deck not previously authorized by the Commission.
2. Authorize the proposed removal of one finger dock, and one storage building and replacement of existing wood docks with concrete deck panel docks.
3. Revise the Consideration to an annual rent of \$10,620 paid in 12 equal monthly installments of \$885, with the rent adjusted annually using the Consumer Price Index (CPI) established by the California Department of Industrial Relations' "California Consumer Price Index (1955-2012) All Items 1982-1984 = 100"; and the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease, effective November 1, 2012.
4. Revise the liability insurance coverage from \$1,000,000 to \$2,000,000.
5. Include additional special lease provisions related to the lease premises, consideration, removal, construction, and the Commission's "Best Management Practices".
6. Delete Exhibit B (Report of Annual Gross Income Form) in its entirety.

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

OTHER PERTINENT INFORMATION:

1. Applicant has a right to use the upland adjoining the lease premises.
2. On August 14, 2004, the Commission approved a General Lease – Commercial Use to Sherwood Harbor Marina, LLC for the continued use

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and maintenance of an existing commercial marina. The Commission also approved an Agreement and Consent to Encumbrancing of Lease in favor of First National Bank as the secured party lender. The lease term is set to expire on October 31, 2024. The Applicant/Lessee is applying to amend the lease for after-the-fact authorization for reconstruction of the existing marina facilities and construction of additional marina improvements.

3. In 2008, the Lessee removed 33 finger berths of various lengths, a gangway, two floating storage buildings, two floating restrooms, a landing, and fuel dock with one dispenser without prior authorization from the Commission.
4. During 2009 and 2010, the Lessee converted the bait shop/snack shed into a floating storage building and replaced 1,200 lineal feet of existing wood docks with concrete deck panel docks. The Lessee also constructed a new ADA gangway, a fuel dock with a marine fuel dispenser with one diesel fuel dispensing line with two hose reels, and a store with an office and attached patio deck without prior authorization from the Commission. The new fuel dock was constructed and authorized by all regulatory agencies and the Lessee received after-the-fact permits from the U.S. Army Corps of Engineers, Central Valley Flood Protection Board, and the City of West Sacramento. The Lessee has provided a spill prevention policy and is now requesting Commission authorization for the unauthorized reconstruction activities. Staff has completed site inspections of the new improvements and recommends approval by the Commission as the improvements are not inconsistent with the Public Trust.
5. Lessee proposes to remove the last finger berth, one storage shed, and existing wood docks and replace the structures with newly constructed concrete deck panel docks by 2019. The finger berth and wood docks will be removed as funds become available. The new docks will be floated into place and the concrete deck panels installed as the old wood docks are removed. The dilapidated storage shed will be taken apart on-site and materials disposed of at an upland land fill.
6. **Existing Structures:** The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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).

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7. **Proposed Removal and Replacement of Structures:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, Title 2, section 2905, subdivision (b).

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

8. **All Other Amended Terms:** The staff recommends that the Commission find that the subject revision of rent 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 CEQA.

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

9. 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.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers, California Department of Fish and Game, California Regional Water Quality Control Board, California Air Resources Board, California Metropolitan Air Quality Management Division, California Department of Alcoholic Beverage Control, Central Valley Flood Protection Board, Reclamation District 900, Yolo County Department of Weights and Measures, City of West Sacramento Fire Department, City of West Sacramento

EXHIBITS:

- A. Land Description
B. Site and Location Map

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Structures: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Proposed Removal and Replacement of Structures: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 2, Replacement or Reconstruction, California Code of Regulations, Title 2, section 2905, subdivision (b).

All Other Amended Terms: Find that the subject revision of rent 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:

Authorize the Amendment of Lease No. PRC 6372.1, a General Lease – Commercial Use, effective December 5, 2012, to:

1. Authorize the after-the-fact removal of 33 existing finger docks, three floating storage buildings, two floating restrooms, patio dock with fuel dispenser, gangway, and landing; conversion of the snack shop into a storage facility, replacement of wood docks with concrete deck panel docks; and construction of an ADA gangway, fuel dock with one marine fuel dispenser, gas and diesel lines, steel fuel piping, store with office and attached patio deck not previously authorized by the Commission.
2. Authorize the proposed removal of one finger dock, one storage building, and replacement of existing wood docks with concrete deck panel docks.

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3. Revise the Consideration to an annual rent of \$10,620 paid in 12 equal monthly installments of \$885, with the rent adjusted annually using the Consumer Price Index (CPI) established by the California Department of Industrial Relations' "California Consumer Price Index (1955-2012) All Items 1982-1984 = 100"; and the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease, effective November 1, 2012.
4. Revise the liability insurance coverage from \$1,000,000 to \$2,000,000.
5. Include additional special lease provisions related to the lease premises, consideration, removal, construction, and the Commission's "Best Management Practices".
6. Delete Exhibit B (Report of Annual Gross Income Form) in its entirety.

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

EXHIBIT A

PRC 6372.1

LAND DESCRIPTION

A parcel of tide and submerged land lying in the bed of the Sacramento River, Township 8 North, Range 4 East, M.D.M., Yolo County, California, more particularly described as follows:

All that land lying immediately beneath the walkways, docks, boat slips, and appurtenant structures that envelope Sherwood Harbor Marina, TOGETHER WITH the necessary use area extending 25 feet beyond the extremities of said walkways, docks, boat slips, and appurtenant structures, and being adjacent to that land described in deed recorded November 20, 1997 as Document No. 97-0028285-00, Official Records of Yolo County.

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

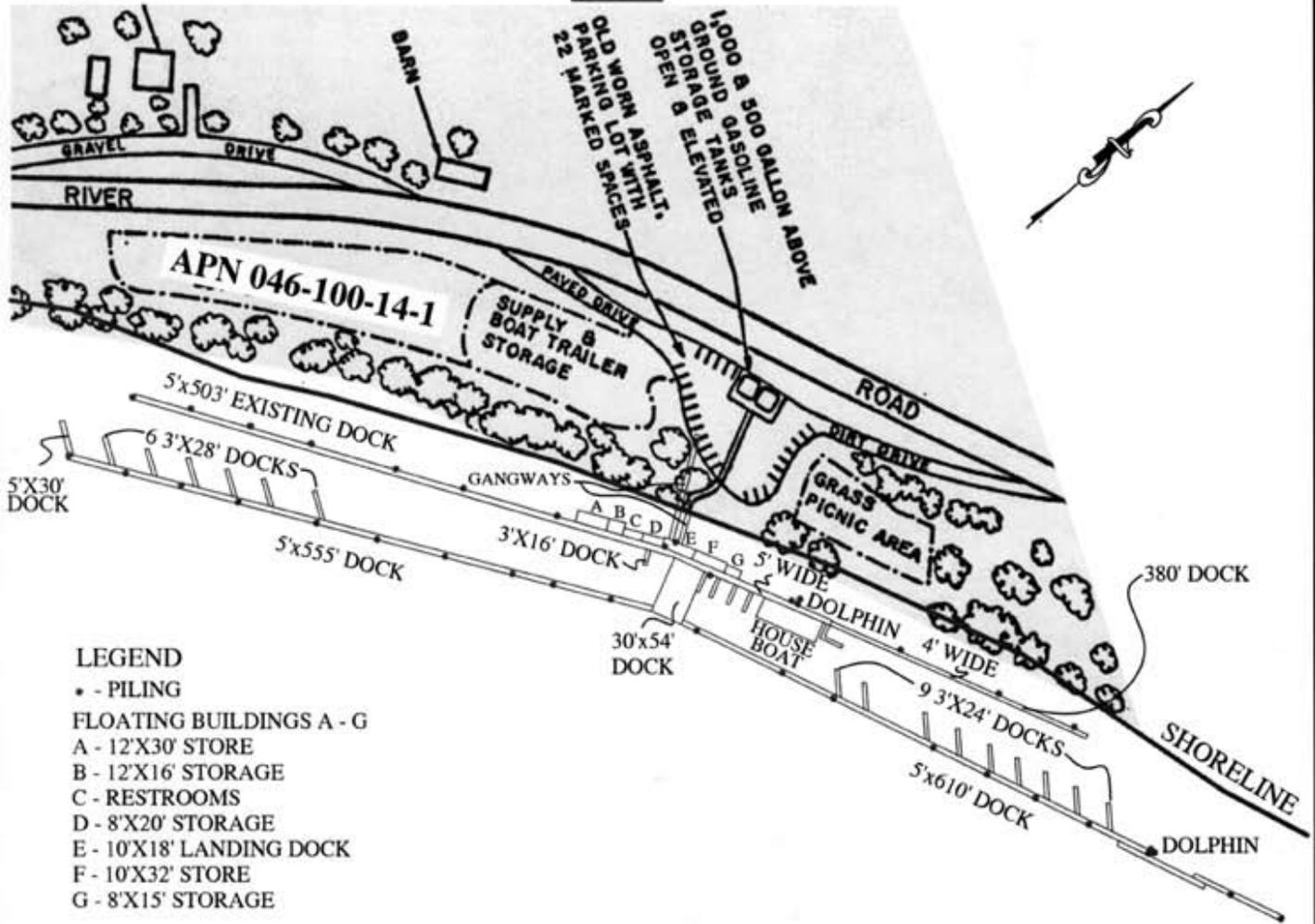
END OF DESCRIPTION

Prepared 8-23-2004 by the Boundary Unit of the California State Lands Commission.



NO SCALE

SITE



LEGEND

- - PILING
- FLOATING BUILDINGS A - G
- A - 12'X30' STORE
- B - 12'X16' STORAGE
- C - RESTROOMS
- D - 8'X20' STORAGE
- E - 10'X18' LANDING DOCK
- F - 10'X32' STORE
- G - 8'X15' STORAGE

SHERWOOD HARBOR MARINA
 3505 SOUTH RIVER RD., WEST SACRAMENTO

NO SCALE

LOCATION



Exhibit B

PRC 6372.1
 SHERWOOD HARBOR
 MARINA, LLC
 APN 046-100-14-1
 GENERAL LEASE -
 COMMERCIAL USE
 YOLO COUNTY



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