

**CALENDAR ITEM
C26**

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S 7

06/28/16
PRC 1546.1
V. Caldwell

ASSIGNMENT OF LEASE AND REVISION OF RENT

LESSEE/ASSIGNOR:

Forestar (USA) Real Estate Group, Inc.

APPLICANT/ASSIGNEE:

2101-2603 Wilbur LLC

AREA, LAND TYPE, AND LOCATION:

11.88 acres, more or less, of filled and unfilled sovereign land in the San Joaquin River, adjacent to 2301 Wilbur Road, near the city of Antioch, Contra Costa County.

AUTHORIZED USE:

Continued use and maintenance of a non-operational industrial pier, two five-pile dolphins, a maintenance pier, water intake pipeline, electrical substation, storm water outfall, instrumentation shed, three day beacons, and surge basin.

LEASE TERM:

14 years, beginning August 9, 2008.

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 rent be revised from \$125,617 to \$140,075 per year, effective August 9, 2016.

OTHER PERTINENT INFORMATION:

1. Assignee will own the upland adjoining the lease premises at the close of escrow but no later than September 30, 2016.
2. On December 3, 2008, the Commission authorized a General Lease - Industrial Use to Forestar (USA) Real Estate Group, Inc (Forestar). The upland property is currently in escrow with 2101-2603 Wilbur LLC, and

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Forestar has requested an assignment of the lease, effective on the close of escrow but no later than September 30, 2016.

3. Under a voluntary agreement approved by the California Environmental Protection Agency (CalEPA) and the Department of Toxic Substances Control (DTSC), Forestar has completed the environmental cleanup and has obtained a "Certificate of Completion" from CalEPA. Under the terms and conditions of the lease, Forestar is required to seek prior authorization from the Commission for any proposed new uses and prior to the re-activation of the improvements on State lands. 2101-2603 Wilbur LLC will be considering potential future use of the Lease Premises and accepts all lease conditions. Staff is recommending the Commission authorize the assignment of the Lease.
4. Staff conducted the rent review called for in the lease and recommends the rent be increased based on the California Consumer Price Index, effective August 9, 2016.
5. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 2.2 to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.
6. Approving the revision of rent and authorizing the assignment of lease are not projects as defined by the California Environmental Quality Act because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15378, subdivision (b)(5).

EXHIBITS:

- A. Site and Location Map
- B. Land Description

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RECOMMENDED ACTION:

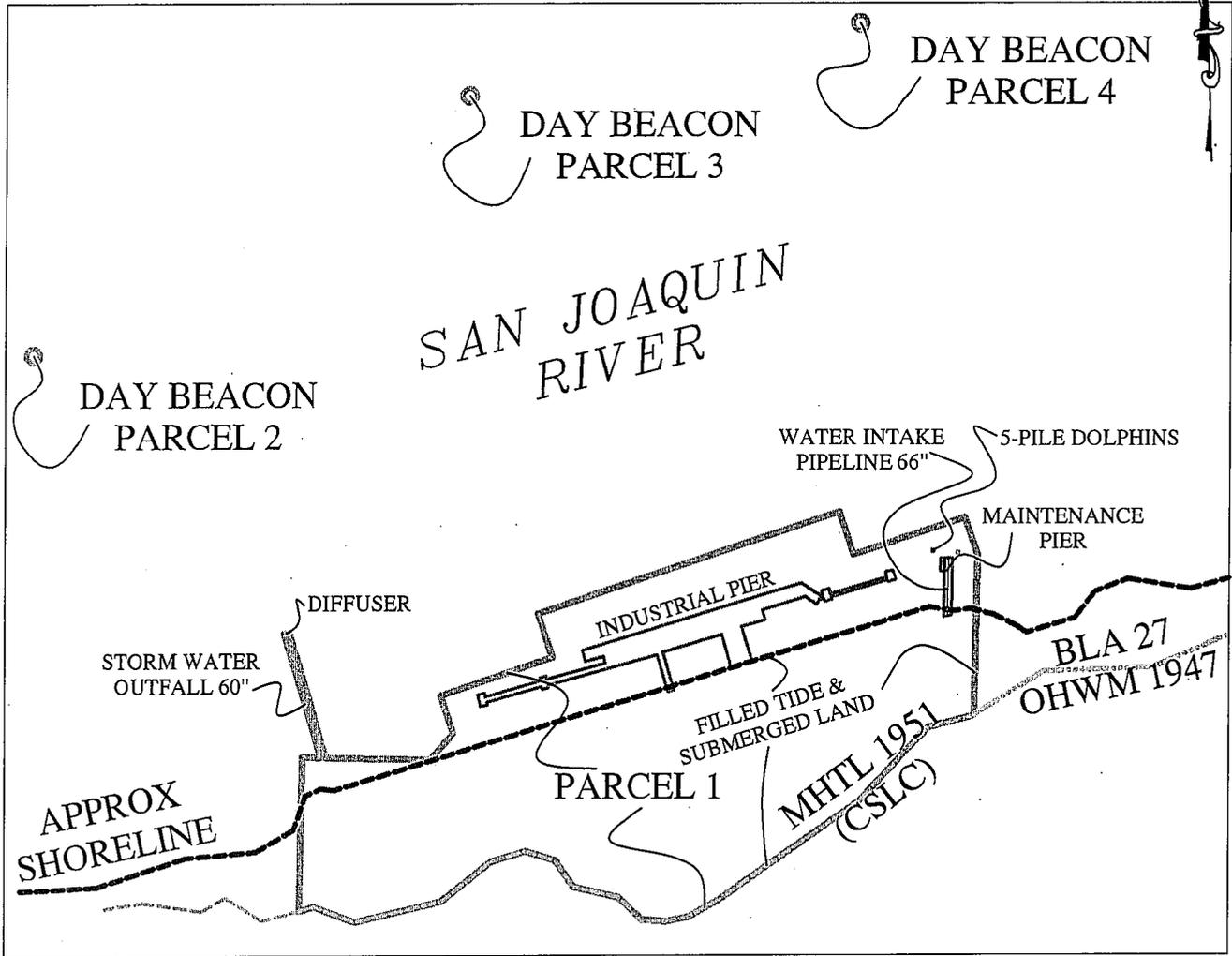
It is recommended that the Commission:

AUTHORIZATION:

1. Approve the revision of rent for Lease No. PRC 1546.1 from \$125,617 per year, to \$140,075 per year, effective August 9, 2016.
2. Authorize the assignment of Lease No. PRC 1546.1, a General Lease – Industrial Use, of filled and unfilled sovereign land as shown on Exhibit A, Site and Location Map (for reference purposes only) and as described in Exhibit B, Land Description, attached and by this reference made a part hereof, from Forestar (USA) Real Estate Group, Inc. to 2101-2603 Wilbur LLC; effective on the close of escrow but no later than September 30, 2016.

NO SCALE

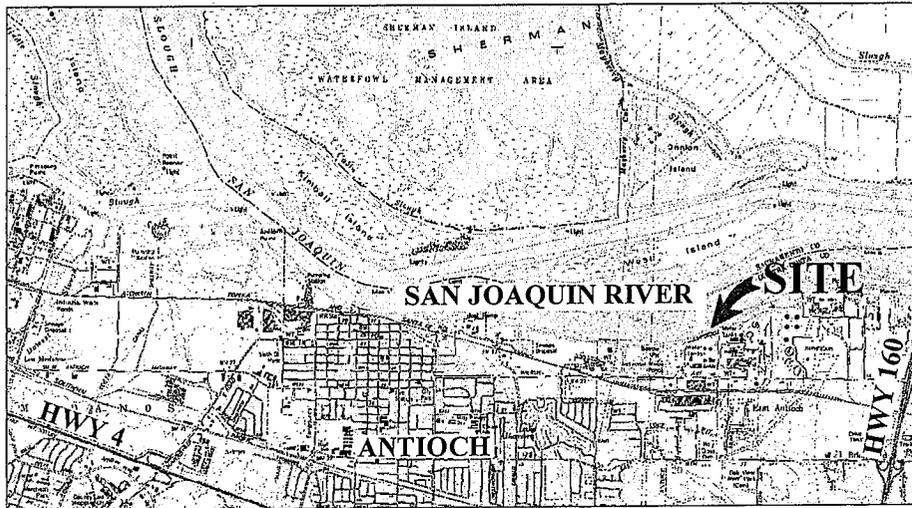
SITE



2301 Wilbur Avenue, Antioch

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 1546.1
 APN 051-020-006,012
 2101-2603 WILBUR ROAD LLC.
 GENERAL LEASE -
 INDUSTRIAL USE
 CONTRA COSTA 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.

EXHIBIT B

PRC 1546

LAND DESCRIPTION

Four parcels of tide and/or submerged in the bed of the San Joaquin River situate in Contra Costa County, California, more particularly described as follows:

PARCEL 1

A parcel of tide and submerged land in the San Joaquin River approximately one mile west of the Antioch Lift Bridge and two miles east of the City of Antioch, Contra Costa County, California, more particularly described as follows:

BEGINNING at a point on the southerly bank of the San Joaquin River, said point being the westerly terminus of that certain boundary line agreement recorded in Liber 1193, page 189, Official Records, Contra Costa County, from which the corner common to Sections 16, 17, 20 and 21, T2N, R2E, MDM, bears S 45°20'53" E, 1,835.72 feet; thence along the following 31 courses:

1. S 58°06'15" W 4.09 feet;
2. S 75°25'00" W 78.48 feet;
3. S 42°57'46" W 179.01 feet;
4. S 54°54'46" W 295.74 feet;
5. S 60°35'34" W 63.13 feet;
6. S 77°54'19" W 42.95 feet;
7. N 84°41'08" W 43.19 feet;
8. N 46°25'56" W 56.59 feet;
9. N 77°09'51" W 81.02 feet;
10. N 35°04'25" W 57.43 feet;
11. N 72°53'50" W 54.41 feet;
12. S 73°33'34" W 63.60 feet;
13. S 51°48'51" W 113.23 feet;
14. S 76°40'32" W 156.20 feet;
15. N 69°26'38" W 76.90 feet;
16. S 74°57'13" W 28.68 feet;
17. N 01°06'16" E 270.00 feet;
18. S 88°53'42" E 33.27 feet;
19. N 17°05'24" W 226.89 feet;
20. N 72°54'36" E 10.00 feet;
21. S 17°05'24" E 230.17 feet;
22. S 88°53'42" E 182.63 feet;
23. N 41°05'19" E 60.86 feet;
24. N 18°41'01" W 70.00 feet;
25. N 71°18'59" E 210.00 feet;
26. N 18°41'01" W 80.00 feet;
27. N 71°18'59" E 560.00 feet;
28. S 18°41'01" E 80.00 feet;
29. N 71°18'59" E 205.23 feet;
30. S 18°41'01" E 70.00 feet;
31. S 01°05'01" W 280.56 feet to the TRUE POINT OF BEGINNING.

PARCEL 2 (Day Beacon #3)

A circular parcel of submerged land in the bed of San Joaquin River having a radius of 14 feet and the radius point of said parcel having a CCS 27, Zone 3 coordinates of N(y) = 555034.64, E(x) = 1631697.87

PARCEL 3 (Day Beacon #5)

A circular parcel of submerged land in the bed of San Joaquin River having a radius of 14 feet and the radius point of said parcel having CCS 27, Zone 3 coordinates of N(y) = 555497.54, E(x) = 1632482.33

PARCEL 4 (Day Beacon #7)

A circular parcel of submerged land in the bed of San Joaquin River having a radius of 14 feet and the radius point of said parcel having CCS 27, Zone 3 coordinates of N(y) = 555630.90, E(x) = 1633181.44

END OF DESCRIPTION

