OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 11/10/2009

TO: Chair and Agency Members

FROM: Marc S. Grisham, Executive Director

SUBJECT: Adoption of a City Council Resolution for Approval of the Third Amendment to the Lease Agreement by and between the Redevelopment agency of the City of Pittsburg and Dockside Market

MEETING DATE: 11/16/2009

EXECUTIVE SUMMARY

The Redevelopment Agency of the City of Pittsburg (the “Agency”) currently has a lease agreement as amended twice (collectively, the “Lease”) with Do Duong and James Nguyen, doing business as “Dockside Market” (collectively, the “Lessee”) for the use of a modular building as a convenience store and bait shop at the George Lowy Marina. The term of the Lease as amended expired on June 30, 2009. A proposed Third Amendment to the Lease (“Third Amendment”) would extend the term until June 30, 2011. The subject monthly rent will remain at $890.00 during the lease term period.

FISCAL IMPACT

The Redevelopment Agency of the City of Pittsburg (the “Agency”) currently has a lease agreement as amended twice (collectively, the “Lease”) with Do Duong and James Nguyen, doing business as “Dockside Market” (collectively, the “Lessee”) for the use of a modular building as a convenience store and bait shop at the George Lowy Marina. The term of the Lease as amended expired on June 30, 2009. A proposed Third Amendment to the Lease (“Third Amendment”) would extend the term until June 30, 2011. The subject monthly rent will remain at $890.00 during the lease term period.

RECOMMENDATION

Staff recommends that the Third Amendment and Lease Extension be approved to allow Dockside Market to continue providing support services to the marina users. Staff further recommends that the Agency authorize and direct the Executive Director of the Agency to execute the Third Amendment and Lease Extension on behalf of the Agency, authorize and direct the Secretary of the Agency to attest thereto, and authorize the Executive Director to execute such further documents and take such further actions as may be necessary or
appropriate to carry out the Agency’s obligations pursuant to the Third Amendment and Lease Extension.

**BACKGROUND**

On November 5, 2001, by Resolution 01-801, the Agency approved a lease agreement by and between the Agency and the Lessee for the lease of the property located at 51 Marina Boulevard, #B. The Lessee has been operating its business commonly referred to as Dockside Market as a convenience store and bait shop.

The Agency relocated the Lessee to another property located at 27 Marina Boulevard due to the Agency sponsored Marina Bed and Breakfast Project which was approved via Resolution 04-1017 on December 20, 2004.

On July 18, 2005, by Resolution 05-1060, the Agency approved the First Amendment to the Lease Agreement, extending the lease to a three-year term which expired on June 27, 2008, along with a lease with Mobile Modular for the temporary building.

Previously, the Agency entered into a Mobile Modular Agreement with Mobile Modular for a thirty-six (36) month term, which commenced on June 27, 2005. This subject modular unit has been assigned a temporary address of 27 Marina Boulevard, and has served as the temporary location for the Lessee for the past four years. The Mobile Modular Agreement expired on June 27, 2008, with the Agency exercising the purchase option on the modular structure in FY 2008/09. The subject modular unit is now owned by the Agency.

On March 26, 2009, the Agency notified that the Lessee that the second amendment to the Lease Agreement was set to expire as of June 30, 2009, with the monthly rent to the Agency set to increase from $890.00 to $940.00 per month beginning FY 2009/10, and further increase to $1,025.00 per month beginning FY 2010/11.

After further economic review, the Agency re-notified the Lessee on October 1, 2009 that the terms of the Lease Agreement would remain the same for the next two (2) year periods given the impacts of the economic recession on local business, and to encourage ongoing business activities in the Agency project area.

**SUBCOMMITTEE FINDINGS**

Not applicable.

**STAFF ANALYSIS**

The proposed Third Amendment will change the following elements of the Agreement as amended:

1. The lease term will be extended to June 30, 2011; and
2. The monthly rent will remain at $890.00 per month to Agency;

In addition, operating conditions shall be placed on the Lessee:

1. No single container alcohol sales; and
2. Cooperation with all City of Pittsburg and Pittsburg Chamber of Commerce sponsored events in the Marina area.
All other terms of the Agreement will remain in full force and effect. The two-year term will allow the Agency to reassess this method of providing bait, and other support services to the boating community at the George Lowy Marina on an annual basis.

Pursuant to Health and Safety Code Section 33431, the public hearing on the Third Amendment was duly noticed on October 30, 2009, and November 6, 2009.

Report Approved By: Marc S. Grisham, Executive Director

ATTACHMENTS: Resolution
Lease

Report Prepared By: Matt Rodriguez, Assistant Executive Director