

MINUTE ITEM

This Calendar Item No. 12
was approved as Minute Item
No. 12 by the State Lands
Commission by a vote of 2
to 0 at its 3/30/78
meeting.

CALENDAR ITEM

12.

GENERAL LEASE
COMMERCIAL USE

3/78
WP 4306
Scott
PRC 4306

APPLICANT: Willow Berm Corporation
Route 1, Box 60
Isleton, California 95641

AREA, TYPE LAND AND LOCATION: A 10.86 acre parcel of tide and submerged
land in the Mokelumne River adjacent to
Andrus Island, Sacramento County.

LAND USE: Continued operation and maintenance of
an existing commercial marina.

TERMS OF ORIGINAL LEASE:

Initial period: 11 years and 9 months
from July 1, 1964.

Renewal options: 1 successive period of
38 years.

Surety bond: \$5,000.

Public liability insurance: \$500,000/
1,000,000 per occurrence
for bodily injury and
\$100,000 for property
damage.

Consideration: \$8,666.50 first 5 years;
\$2,380.75 for 1969; \$2,675.00
per year 1970 through
1974; and \$2,006.25 for
1975.

TERMS OF PROPOSED LEASE:

Initial period: 25 years from January 1,
1978.

Renewal options: 2 successive periods
of 10 years each.

Surety bond: \$5,000.

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Public liability insurance: \$500,000/
1,000,000 per occurrence
for bodily injury and
\$500,000 for property
damage or combined single
limit coverage of \$1,000,000.

CONSIDERATION: \$7,500 as rental for the period July 1,
1976 through December 31, 1977. Beginning
January 1, 1978, 5% of gross income from
berthing on State land plus 1 cent per
gallon of fuel sales up to 100,000 gallons
and 1½ cents per gallon over 100,000 gallons,
less a \$5,000 annual minimum paid in advance.

BASIS FOR CONSIDERATION:

Percentage of gross income pursuant to
2 Cal. Adm. Code Section 2006 (b)(1).

PREREQUISITE TERMS, FEES AND EXPENSES:

Applicant is owner of upland.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Div. 6, Parts 1 & 2.
- B. Administrative Code: Title 2, Div. 3,
Arts. 1, 2, 10 & 11.

OTHER PERTINENT INFORMATION:

1. The Commission's standard lease form
has been modified in order to incorporate
special language necessary in order
to implement rental based on a percentage
of the gross income derived by the
lessee from the leased area.
2. Because the annual rental will be based
on a percentage of gross income and
not on appraised land value the staff
recommends that the standard 5 year
rent review provision be waived and
the initial term of the lease be set
at 25 years.
3. Special provisions have been incorporated
in the lease form regarding the maintenance
by lessee of records and books subject
to staff review in order to assure
proper reporting of gross income by
lessee.

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4. The only exception to gross income derived from the lease area being subject to percentage rental is fuel sales. Fuel sales will have rental calculated based on volume; at 1 cent per gallon for the first 100,000 gallons and 1½ cents for all fuel sold over 100,000 gallons.
5. The original lease expired during negotiations and lessee and staff have negotiated a rental for the period between the expiration of the original lease and the beginning of the proposed lease. The negotiated rental was based on the minimum annual rental contained in the proposed lease.
6. An EIR is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907, Class 1B, which exempts an existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion, or other types of environmental degradation.
7. This project is situated on State land identified as possessing significant environmental values pursuant to Public Resources Code 6370.1, and is classified in a use category, Class B which authorizes Limited Use.

Staff review indicates that there will be no significant effect upon the identified environmental values. This is an existing facility for which no adverse comments have been received.

EXHIBITS: A. Land Description. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.

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2. FIND THAT GRANTING OF THE LEASE WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE PUBLIC RESOURCES CODE.
3. AUTHORIZE ISSUANCE TO WILLOW BERM CORPORATION OF A 25-YEAR GENERAL LEASE - COMMERCIAL USE FROM JANUARY 1, 1978, WITH LESSEE'S OPTION TO RENEW FOR 2 SUCCESSIVE PERIODS OF 10 YEARS EACH; IN CONSIDERATION OF \$7,500 RENTAL FOR THE PERIOD OF JULY 1, 1976 THROUGH DECEMBER 31, 1977; CONTINUING ANNUAL RENTAL BEGINNING JANUARY 1, 1978 IN THE AMOUNT OF 5% OF THE GROSS INCOME DERIVED FROM BERTHING ON STATE LAND PLUS 1 CENT PER GALLON OF FUEL SALES UP TO 100,000 GALLONS AND 1½ CENTS PER GALLON THEREAFTER LESS A \$5,000 ANNUAL MINIMUM PAID IN ADVANCE; PROVISION OF A \$5,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF \$500,000/1,000,000 PER OCCURRENCE FOR BODILY INJURY AND \$500,000 FOR PROPERTY DAMAGE, OR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR THE CONTINUED OPERATION AND MAINTENANCE OF AN EXISTING COMMERCIAL MARINA ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

WP 4306

A parcel of tide, submerged and filled land in the State owned bed of the Mokelumne River, Sacramento County, California, lying approximately three quarters of a mile upstream from the confluence of the Mokelumne and San Joaquin Rivers, more particularly described as follows:

COMMENCING at a point on the boundary of that tract of land described in Amended Judgment No. 81526 recorded in Book 2279 at Page 98, Sacramento County Records, which Bears N 31° 35' E, 210.00 feet from an iron pipe marked "LS 1818" located at the common easterly corner of the property owned by A.C. Korth, et ux., and John Martin, et ux.; thence along the boundary of said Amended Judgment N 35° 21' 10" W, 362.94 feet to the TRUE POINT OF BEGINNING; thence leaving the boundary of said Amended Judgment N 46° 36' 14" W, 125.00 feet; thence N 43° 31' 46" E, 105.00 feet; thence S 46° 36' 14" E, 800.00 feet; thence N 64° 19' 46" E, 230.00 feet; thence S 35° 03' 14" E, 174.96 feet; thence S 43° 23' 11" E, 97.28 feet; thence S 34° 44' 06" E, 456.32 feet; thence S 25° 43' 49" E, 71.31 feet; thence S 35° 03' 14" E, 242.10 feet; thence S 60° 56' 46" W, 326.72 feet to a point on the boundary of said Amended Judgment; thence along the boundary of said Amended Judgment (as do the following nine courses) N 10° 30' 50" W, 57.91 feet; thence N 76° W, 230.00 feet; thence N 25° W, 350.00 feet; thence N 18° W, 150.00 feet; thence N 38° W, 350.00 feet; thence N 30° W, 160.00 feet; thence N 45° W, 310.00 feet; thence N 41° W, 210.00 feet; thence N 77° W, 32.54 feet; thence S 22° 26' E, 80.04 feet to the point of beginning.

END OF DESCRIPTION

Prepared R. L. Blake Checked John H. Sperry
Reviewed Frank S. Johnson Date 2/18/75

