

MINUTE ITEM

4/23/70
EWC

9. AUTHORIZATION FOR AN AMENDMENT TO LEASE P.R.C. 2215.1, TIDE AND SUBMERGED LANDS IN SAN JOAQUIN AND MOKELUMNE RIVERS, SACRAMENTO COUNTY; LLOYD P. KORTH, dba KORTH'S PIRATE'S LAIR MARINA - W-4295.

After consideration of Calendar Item 26 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE ISSUANCE TO LLOYD P. KORTH, dba KORTH'S PIRATE'S LAIR MARINA, OF AN AMENDMENT TO LEASE P.R.C. 2215.1 THAT WILL PROVIDE FOR THE DELETION OF THE PROPERTY DESCRIPTION APPEARING ON PAGE 1 THEREOF AND FOR THE SUBSTITUTION OF THAT SHOWN ON EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF, EFFECTIVE FROM AUGUST 5, 1959; PROVIDED THAT LESSEE SHALL PAY ADDITIONAL RENT FOR PARCEL 2, ON WHICH ADDITIONAL BOAT BERTHING AND A BREAKWATER MAY BE CONSTRUCTED, IN THE AMOUNT OF \$3,582.21 FOR THE PERIOD AUGUST 5, 1959, TO AUGUST 4, 1970, AND OF \$1,052.50 ANNUALLY COMMENCING ON AUGUST 5, 1970; AND PROVIDED FURTHER THAT LESSEE SHALL PROVIDE A \$4,000 BOND IN LIEU OF \$1,000, AND PUBLIC LIABILITY INSURANCE IN THE AMOUNTS OF \$300,000/\$600,000 FOR PERSONAL INJURY AND \$100,000 FOR PROPERTY DAMAGE, BOTH BOND AND INSURANCE TO BE EFFECTIVE NOT LATER THAN THE DATE THE AMENDMENT IS EXECUTED ON BEHALF OF THE STATE; PROVIDED FURTHER THAT ALL OTHER TERMS AND CONDITIONS OF SAID LEASE SHALL REMAIN IN FULL FORCE AND EFFECT. FURTHER, THE COMMISSION FINDS THAT PROJECTION OF THE NORTHERLY BOUNDARY LINE OF PARCEL 2 FROM THE SHORELINE IS REASONABLE AND PROPER AND IN THE BEST INTERESTS OF THE STATE.

Attachment:

Calendar Item 26 (3 pages)

CALENDAR ITEM

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26.

AMENDMENT OF COMMERCIAL LEASE P.R.C. 2215.1

APPLICANT: Lloyd P. Korth, dba Korth's Pirate's Lair Marina.

LOCATION: Two parcels (2.77 and 4.21 acres, as amended) of tide and submerged lands in San Joaquin and Mokelumne Rivers adjacent to Andrus Island, Sacramento County.

LAND USE: The operation of a marina.

TERMS OF BASIC LEASE:

- Initial period: 15 years, from August 5, 1958.
- Renewal options: 2 additional periods of 10 years each.
- Surety bond: \$1,000, to be increased to \$4,000 by Amendment.
- Public liability insurance:
 - To be added by Amendment: \$300,000/\$600,000 for personal injury, and \$100,000 for property damage.

CONSIDERATION: Parcel 1 - \$100 per annum as provided in basic lease.
Parcel 2 - \$1,052.50 per annum from August 5, 1970.

BASIS FOR CONSIDERATION AS APPLYING TO PARCEL 2:
Comparison with nominal rentals carried by existing leases in the area.

PREREQUISITE ITEMS:
U.S. Army Corps of Engineers permit issued.
Applicant is owner of upland.

STATUTORY AND OTHER REFERENCES:

- a. Public Resources Code: Div. 6, Pt. 2, Ch. 1, Secs. 6501-C9.
- b. Administrative Code: Title 2, Div. 3, Arts. 1 & 2 as amended effective May 10, 1969.

OTHER PERTINENT INFORMATION:

1. The basic lease covers only Parcel 1. The Amendment adds Parcel 2, comprising 4.21 acres of tide and submerged land. During negotiations, it was discovered that approximately 25% of Parcel 2 had been occupied by structures since 1959 and another 25% since 1963. The Amendment will provide for retroactive rent to cover "... occupancy.
2. Plans for expanding this existing marina include dredging (a separate calendar item) within Parcel 2, and for the construction of an earthen breakwater as shown on Exhibit "C".

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3. Attention is called to projection of the northerly lease line from the shoreline as shown on Exhibit "C". The waterward boundary of the Moore property was set by Court Judgment against the State as defendant. The dredger cut is subject to an easement, by Reclamation District No. 317 for flood control and reclamation purposes, and by the public for navigation, commerce and fishery. The Court did not establish fee ownership of the cut. Mr. Moore has been advised of the boundaries of the amended lease, and no formal objection has been received.

EXHIBITS: A. Land description. B. Location map. C. Site map.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ISSUANCE TO LLOYD P. KORTH OF AN AMENDMENT TO LEASE P.R.C. 2215.1 THAT WILL PROVIDE FOR THE DELETION OF THE PROPERTY DESCRIPTION APPEARING ON PAGE 1 THEREOF AND FOR THE SUBSTITUTION OF THAT SHOWN ON EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF, EFFECTIVE FROM AUGUST 5, 1959; PROVIDED THAT LESSEE SHALL PAY ADDITIONAL RENT FOR PARCEL 2, ON WHICH ADDITIONAL BOAT BERTHING AND A BREAKWATER MAY BE CONSTRUCTED, IN THE AMOUNT OF \$3,582.21 FOR THE PERIOD AUGUST 5, 1959, TO AUGUST 4, 1970, AND OF \$1,052.50 ANNUALLY COMMENCING ON AUGUST 5, 1970; AND PROVIDED FURTHER THAT LESSEE SHALL PROVIDE A \$4,000 BOND IN LIEU OF \$1,000, AND PUBLIC LIABILITY INSURANCE IN THE AMOUNTS OF \$300,000/\$600,000 FOR PERSONAL INJURY AND \$100,000 FOR PROPERTY DAMAGE, BOTH BOND AND INSURANCE TO BE EFFECTIVE NOT LATER THAN THE DATE THE AMENDMENT IS EXECUTED ON BEHALF OF THE STATE; PROVIDED FURTHER THAT ALL OTHER TERMS AND CONDITIONS OF SAID LEASE SHALL REMAIN IN FULL FORCE AND EFFECT. IT IS FURTHER RECOMMENDED THAT THE COMMISSION FIND THAT PROJECTION OF THE NORTHERLY BOUNDARY LINE OF PARCEL 2 FROM THE SHORELINE IS REASONABLE AND PROPER AND IN THE BEST INTERESTS OF THE STATE.

Attachment: Exhibit "A"

EXHIBIT "A"

Two parcels of tide and submerged lands in the State of California, County of Sacramento, and lying in the bed of the San Joaquin River and Mokelumne River at the point of their confluence, being more particularly described as follows:

Parcel 1

COMMENCING at an iron pipe tagged L.S. 1818 on the northwesterly boundary of the A. C. Korth property; thence S. $07^{\circ} 53' 00''$ E., 2,265.00 feet to the TRUE POINT OF BEGINNING and bank of said rivers; thence leaving said bank the following courses S. $07^{\circ} 53'$ E., 95.00 feet; S. $22^{\circ} 08' E.$, 28.00 feet; S. $10^{\circ} 32' W.$, 112.00 feet; S. $69^{\circ} 17' W.$, 119.00 feet; N. $88^{\circ} 43' W.$, 182.00 feet; N. $66^{\circ} 33' W.$, 81.00 feet; N. $34^{\circ} 33' W.$, 104.00 feet; N. $68^{\circ} 43' W.$, 23.00 feet; N. $36^{\circ} 13' W.$, 70.00 feet; N. $61^{\circ} 18' W.$, 55.00 feet; N. $20^{\circ} 07' E.$, 86.00 feet to the bank of said rivers, thence easterly along said bank to the true point of beginning, containing 2.77 acres, more or less.

Parcel 2

BEGINNING at the true point of beginning of the aforementioned parcel, thence along the easterly line of Parcel 1 the following four courses, S. $07^{\circ} 53' W.$, 95.00 feet; S. $22^{\circ} 08' E.$, 28.00 feet; S. $10^{\circ} 32' W.$, 112.00 feet; S. $69^{\circ} 17' W.$, 119.00 feet; thence leaving said parcel the following courses, N. $86^{\circ} 41' 40'' E.$, 136.83 feet; N. $88^{\circ} 50' E.$, 142.00 feet; N. $58^{\circ} 45' E.$, 146.00 feet; N. $44^{\circ} 00' E.$, 110.00 feet; N. $41^{\circ} 31' E.$, 420.00 feet; N. $79^{\circ} 35' W.$, 314.00 feet; N. $76^{\circ} 36' W.$, 75.47 feet to the bank of said rivers, thence southwesterly along said bank to the true point of beginning, containing 4.21 acres, more or less.

EXCEPTING therefrom any portion lying landward of the ordinary high water mark.

The meridian of this description is identical with that for the description contained in the Amended Judgment, S.S.C. No. 81,526, in Sacramento, California.