

MINUTE ITEM

This Calendar Item No. 16
was approved as Minute Item
No. 16 by the State Lands
Commission by a vote of 2
to 0 at its 11/30/77
meeting.

CALENDAR ITEM
16.

11/77
W 503.787
Lindfeldt
PRC 5413

SETTLEMENT OF LITIGATION AND ISSUANCE
OF GENERAL LEASE - COMMERCIAL USE

In March of 1975, Staff Counsel of the State Lands Commission filed a lawsuit in the case of State of California v. Patricia Avila, dba the River Galley Restaurant and Marina, and Does One through One Hundred, Yolo County Superior Court No. 32249; seeking damages and ejectment for the occupation and use of the sovereign lands of the State. Negotiations with the parties and their attorney have resulted in a settlement of the lawsuit. The defendants have executed a State Lands Commission lease and have agreed to a settlement of back rent owed. Said lease and agreement are on file in the Office of the State Lands Commission and are incorporated herein by reference. The lease provisions are summarized as follows:

APPLICANT: Patricia Avila and M. R. Richards
The River Galley
3030 Ironwood Way
West Sacramento, California 95691

AREA, TYPE LAND AND LOCATION: A 2.503 acre parcel of tide and submerged land in the Sacramento River, Yolo County.

LAND USE: Continued operation of a commercial marina.

TERMS OF PROPOSED LEASE:
Initial period: 15 years from February 1, 1978.

Renewal options: Two successive periods of 10 years each.

Surety bond: \$2,000.

Public liability insurance: \$300,000 combined single limit for bodily injury and property damage.

CONSIDERATION: \$450 per year payable in advance on the beginning date of this lease and each anniversary thereafter or 5% of gross annual income derived from the berthing and dock facilities

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and 1% of the gross income derived from the restaurant and bar operations paid annually, whichever is the greater. Lessee shall be allowed to reduce the rental owed under the percentage of gross income calculations by the \$450 minimum paid in advance.

PREREQUISITE TERM:

Applicant is lessee of upland.

STATUTORY AND OTHER REFERENCES:

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

OTHER PERTINENT INFORMATION:

1. This is an existing facility which is maintained in an acceptable manner and which has not caused any adverse effects to the environment.
2. This project is situated on State land identified as possessing significant environmental values pursuant to Public Resources Code Section 6370.1, and is classified in a significant use category, Class B.

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.

3. An Environmental Impact Report is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907(a) 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.

EXHIBITS:

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

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IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT 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.
2. FIND THAT GRANTING OF THE APPLICATION WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1 ET SEQ., OF THE PUBLIC RESOURCES CODE.
3. AUTHORIZE ISSUANCE TO PATRICIA AVILA AND M. R. RICHARDS, DBA THE RIVER GALLEY RESTAURANT OF A 15-YEAR GENERAL LEASE - COMMERCIAL USE FROM FEBRUARY 1, 1978 WITH THE LESSEE'S OPTION TO RENEW FOR TWO SUCCESSIVE PERIODS OF 10-YEARS; EACH IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$450 PER YEAR PAYABLE IN ADVANCE ON THE BEGINNING DATE OF THIS LEASE AND EACH ANNIVERSARY THEREAFTER, OR 5% OF GROSS ANNUAL INCOME DERIVED FROM THE BERTHING AND DOCK FACILITIES, AND 1% OF THE GROSS INCOME DERIVED FROM THE RESTAURANT AND BAR OPERATIONS PAID ANNUALLY, WHICHEVER IS THE GREATER. LESSEE SHALL BE ALLOWED TO REDUCE THE RENTAL OWED UNDER THE PERCENTAGE OF GROSS INCOME CALCULATIONS BY THE \$450 MINIMUM PAID IN ADVANCE WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF A \$2,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF \$300,000 COMBINED SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE; FOR THE CONTINUED OPERATION AND MAINTENANCE OF A COMMERCIAL MARINA ON THE LAND DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
4. AUTHORIZE THE FILING OF A DISMISSAL IN THE MATTER OF STATE OF CALIFORNIA V. PATRICIA AVILA DBA THE RIVER GALLEY RESTAURANT AND MARINA, YOLO COUNTY SUPERIOR COURT NO. 32249.

Attachment: Exhibit "A"

EXHIBIT "A"

All that certain parcel of land within the State owned bed of the Sacramento River, being in the County of Yolo, State of California, more particularly described as follows:

COMMENCING at a point in the centerline of the east levee of Reclamation District #811, said point being the northwesterly corner of Parcel A, as shown on that Record of Survey entitled "Portion of Land Lying Between S.L.S. No. 653 and S.L.S. No. 354 near Broderick", filed in Book 9 of Maps and Surveys at page 82 in the office of the Yolo County Recorder; thence N 47° 09' 00" 559.0 feet along the northwesterly line of said Parcel A and the northeasterly prolongation thereof to the TRUE POINT OF BEGINNING; thence N 46° 56' 23" W 860.0 feet; thence S 42° 59' 58" W 170.0 feet more or less to the high water mark on the right bank of the Sacramento River; thence meandering downstream along the high water mark on the right bank of the Sacramento River S 52° 38' 23" E 858.0 feet to an intersection with the northwesterly line of said Parcel A; thence leaving said high water mark N 47° 09' E 85.0 feet along the northwesterly line of Parcel A and the northeasterly prolongation thereof more or less to the point of beginning containing 2.503 acres more or less.

Bearings are based on the centerline of the east levee of Reclamation District No. 811, being the southwesterly line of the aforementioned Parcel A, the bearing being N 28° 00' W.