

CALENDAR ITEM  
C13

MINUTE ITEM  
This Calendar Item No. C13  
was approved as Minute Item  
No. 13 by the State Lands  
Commission by a vote of 2  
to 0 at its 12/21/94  
meeting

A 8  
S 4

GENERAL LEASE - COMMERCIAL USE

12/21/94  
WP 2851  
Jones

APPLICANT:

Build America Affordable Housing, Inc.  
154 Los Gatos Boulevard, Suite 101  
Los Gatos, California 95032

AREA, TYPE LAND AND LOCATION:

A 1.14-acre parcel of tide and submerged land in Seven-Mile Slough at Andrus Island, Sacramento County.

LAND USE:

Operation and maintenance of a 50-berth commercial marina.

PROPOSED LEASE TERMS:

Lease period:  
25 years, beginning December 21, 1994.

Surety bond:  
\$20,000.

Liability insurance:  
\$1,000,000 combined single limit.

CONSIDERATION:

Lessee shall pay a minimum annual rental of \$2,315 per annum or 5% of the gross income per annum from the berthing and mooring of boats, whichever is greater, with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

BASIS OF CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and processing costs have been received.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

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AB 884:

N/A

**OTHER PERTINENT INFORMATION:**

1. A 30-year General Lease - Commercial Use was issued to Skyline Associates #2 beginning March 21, 1980 for a commercial marina at the subject site. Skyline Associates #2 assigned its interest in the lease to Blue Heron Harbor, Inc., effective November 29, 1984; Blue Heron Harbor, Inc. subsequently assigned its interest back to Skyline Associates #2, effective January 1, 1985. At its meeting of May 31, 1989, the Commission authorized litigation against Skyline Associates #2 and terminated the lease for nonpayment of rent; on October 24, 1990, a lease quitclaim deed from Skyline Associates #2 to the State Lands Commission was recorded in the Official Records of Sacramento County.
2. On June 29, 1990, Mr. Thomas and Robyn Liebner purchased the marina but never entered into a new lease with the Commission. On September 27, 1990, the Commission authorized litigation against the Liebner's for trespass, ejectment and damages to terminate the unauthorized occupation and use of the lease premises.
3. On December 9, 1994, an application was received by Build America Partners #2, Limited Partnership, to enter into a new lease with the Commission for the existing marina facilities. Subsequently, it was determined that the parent corporation, Build America Affordable Housing, Inc., would become the applicant. Build America Affordable Housing, Inc. does not propose any changes to the existing facilities; however, the facility is in a state of disrepair and it proposes to make repairs which will not change the existing footprint nor change the facility's purpose or capacity.
4. A gasoline pump and underground storage tank were previously located at the site. Mr. Leibner obtained a permit from the County of Sacramento's Environmental Management Department to remove these facilities, Permit No. 94-069.

5. The Liebner's owe back rental to the State since they purchased the property in 1990. The back rent amounts to \$10,550, plus interest at the pooled interest rate which amounts to \$581.51, with a total owing of \$11,731. This amount is proposed to be paid to the State through the escrow process.

**EXHIBITS:**

- A. Site Map
- B. Location Map

**AB 884:**

N/A

**RECOMMENDED**

**ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA**

**FINDING:**

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 2, REPLACEMENT OF DETERIORATED STRUCTURES ON STATE LANDS, 2 CAL. CODE REGS. 2905 (b).

**SIGNIFICANT LANDS**

**INVENTORY FINDING:**

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.

**AUTHORIZATION:**

AUTHORIZE ISSUANCE TO BUILD AMERICA AFFORDABLE HOUSING, INC., OF A 25-YEAR GENERAL LEASE - COMMERCIAL USE, BEGINNING DECEMBER 21, 1994; IN CONSIDERATION OF A BASE ANNUAL RENT IN THE AMOUNT OF \$2,315, OR FIVE PERCENT OF GROSS INCOME PER ANNUM, WHICHEVER IS GREATER, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT OF \$1,000,000; FOR A 50-BERTH COMMERCIAL MARINA CONSISTING OF COVERED AND UNCOVERED BERTHS INVOLVING ONE 20 FT. X 30 FT, BERTH, ONE 20 FT. X 50 FT. BERTH, ONE 50 FT. X 13 FT. BERTH, ONE 40 FT. X 13 FT. BERTH,

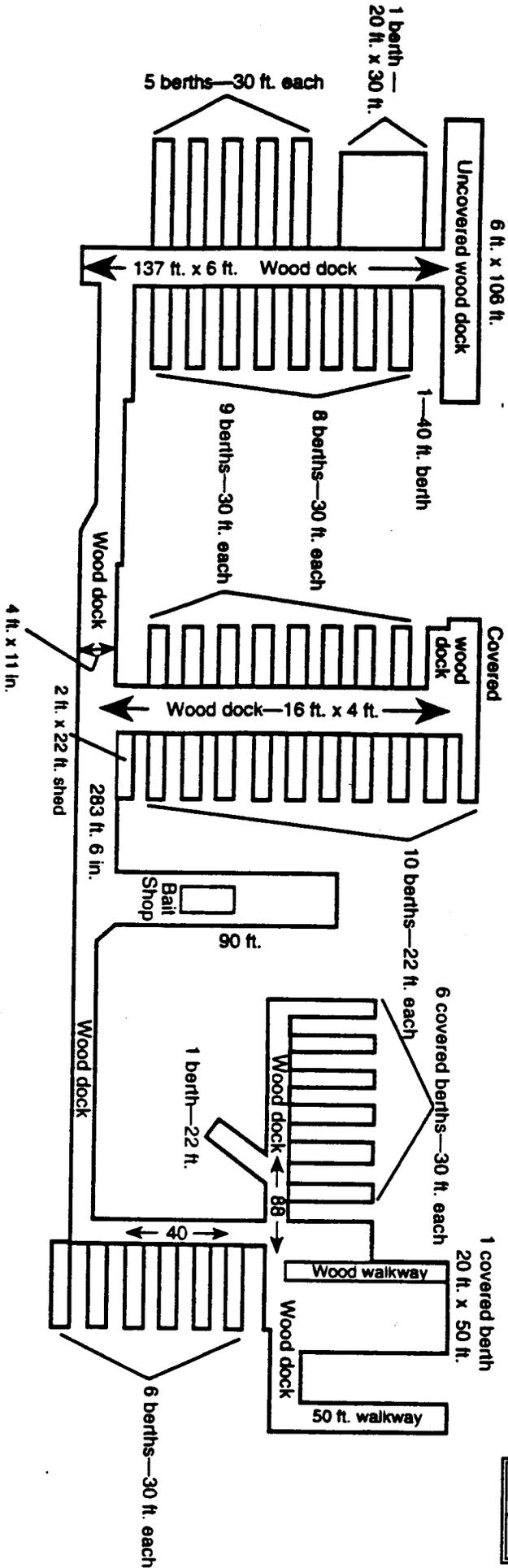
CALENDAR ITEM NO. C13 (CONT'D)

TWENTY FIVE (25) 30 FT. X 14 FT. BERTHS, TWENTY (20) 22 FT. X 11 FT. BERTHS, AND ONE 13 FT. X 10 FT. BERTH; ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

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WP 2851  
 Build America Partners #2  
 Limited Partnership

Rainbow Marina



- 1 berth ● 30 ft. = 30
- 1 berth ● 50 ft. = 50
- 1 berth ● 50 ft. = 50
- 1 berth ● 40 ft. = 40
- 25 berths ● 30 ft. = 750
- 20 berths ● 22 ft. = 440
- 1 berth ● 13 ft. = 13

50 total berths      1373 linear ft.

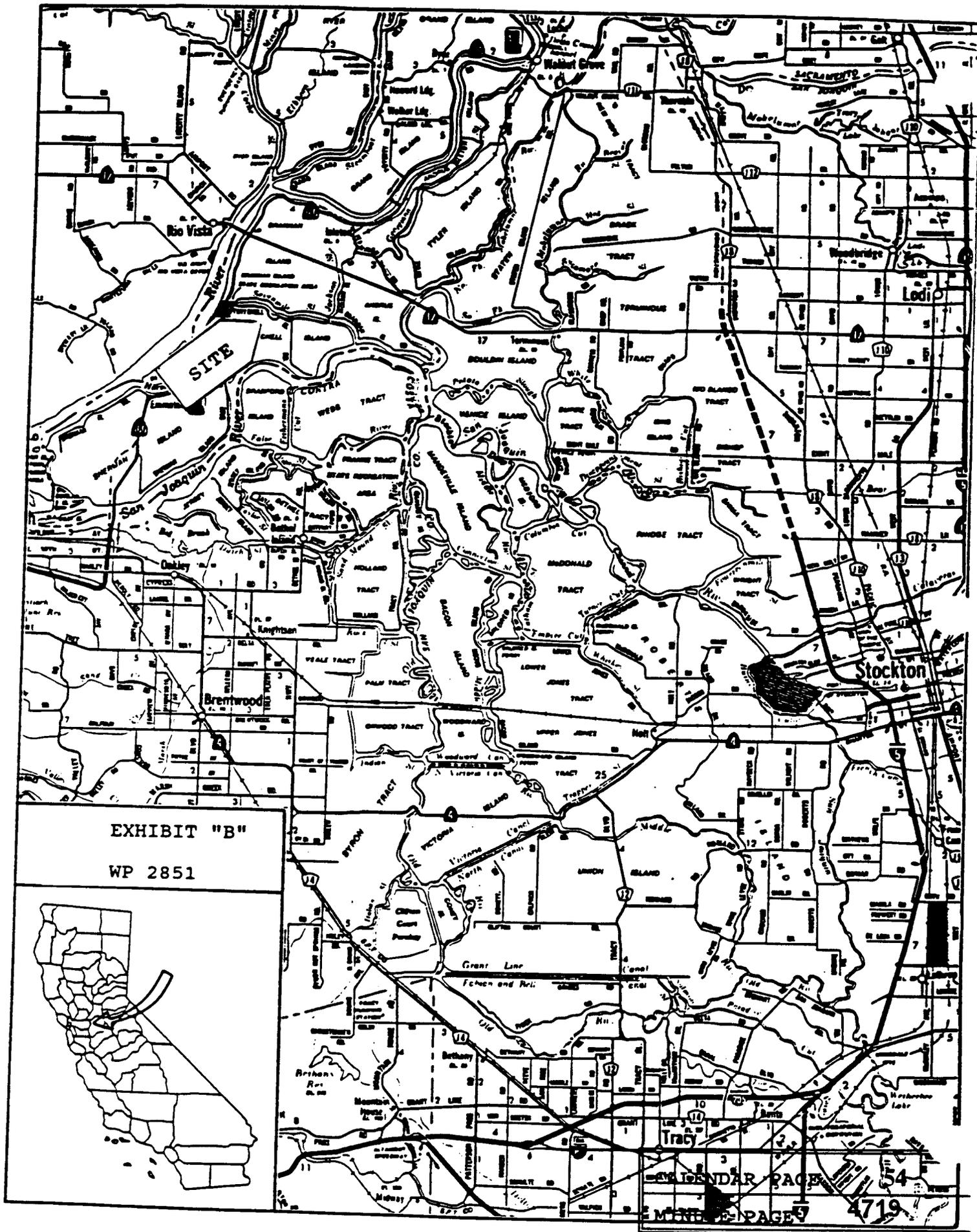


EXHIBIT "B"

WP 2851



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