

This Calendar Item No. 36 was approved as
Minute Item No. 36 by the California State Lands
Commission by a vote of 2 to 0 at its 06/07/04
meeting.

**CALENDAR ITEM
C36**

A	Statewide	School Lands Bid Log 2004-01
		06/07/04
S		W25973
		J. Porter
		J. Frey

**REQUEST DELEGATION FOR EXECUTIVE OFFICER TO SOLICIT BIDS
FOR A GENERAL LEASE – INDUSTRIAL USE
FOR A WIND MONITORING PROJECT**

PARTY:

California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

BACKGROUND:

The California State Lands Commission (CSLC), through its State School Lands Management Program, manages approximately 476,000 acres of school lands held in fee ownership by the State and the reserved mineral interests on another 790,000 acres of school lands. Section 8700 et seq. of the Public Resources Code (School Land Bank Act) provides for the acquisition of real property (or any interest in real property) by the CSLC acting as the School Land Bank trustee with the objective of facilitating management of school lands for the purpose of generating revenue. Through the establishment of the Act, the Legislature directed the CSLC to manage the remaining school lands to provide an economic base for support of the public school system, rather than continuing to deplete the inventory through land sales. The CSLC is responsible for developing school lands into a permanent and productive resource base for revenue generating purposes.

PROPOSED ACTIVITY:

Staff proposes, pursuant to the provisions of PRC section 8700 et seq., to solicit proposals for a lease for 640± acres of state school lands located in San Diego County for a wind-monitoring project. The property is identified as Section 16, Township 16 South, Range 6 East, San Bernardino Base Meridian, and further identified as APN 528-230-09, San Diego County. The lease would permit the lessee to utilize the lease premises for three years and allow the lessee to erect no more than two wind monitoring masts. The total surface area to be authorized for use by the two wind monitoring mast installations shall be limited to no more than 80,000 square feet.

CALENDAR ITEM NO. C36 (CONT'D)

The proposals for this lease shall be solicited through a Request for Proposal (RFP) attached hereto as Exhibit B. The biddable factor for this RFP shall be the annual rent to be paid by the lessee for the right to occupy and utilize the lease premises during the term of the wind monitoring lease. The minimum annual rent permitted under the RFP shall be \$1,000 per year for the wind monitoring lease. The wind monitoring lease to be considered by the CSLC defined through the process described in the RFP also shall include, upon the termination of the lease, lessee's right to apply for a long-term exclusive lease of the entire 640± acres of the lease premises for the development of wind-powered electrical generating facilities. The new long-term lease, the terms and conditions of which are unknown at this time, would require the preparation of appropriate environmental documentation pursuant to the provisions of the California Environmental Quality Act (CEQA) and further consideration and approval by the Commission. The RFP reserves to the Commission the right to reject any and all bids for reasonable cause and does not commit the Commission to enter into a subsequent long term lease.

OTHER PERTINENT INFORMATION:

1. As to the issuance of the RFP, pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15060(c)(3) and 15378.

STATUTORY AND OTHER REFERENCES:

- A. Division 6 of the Public Resources Code
- B. Public Resources Code Section 6106 (Delegation to execute written instruments)
- C. Public Resources Code Section 6216 (Authority to lease)
- D. Public Resources Code Section 6501 (Authority to lease)

EXHIBITS:

- A. Location Map
- B. Request for Proposal

CALENDAR ITEM NO. C36 (CONT'D)

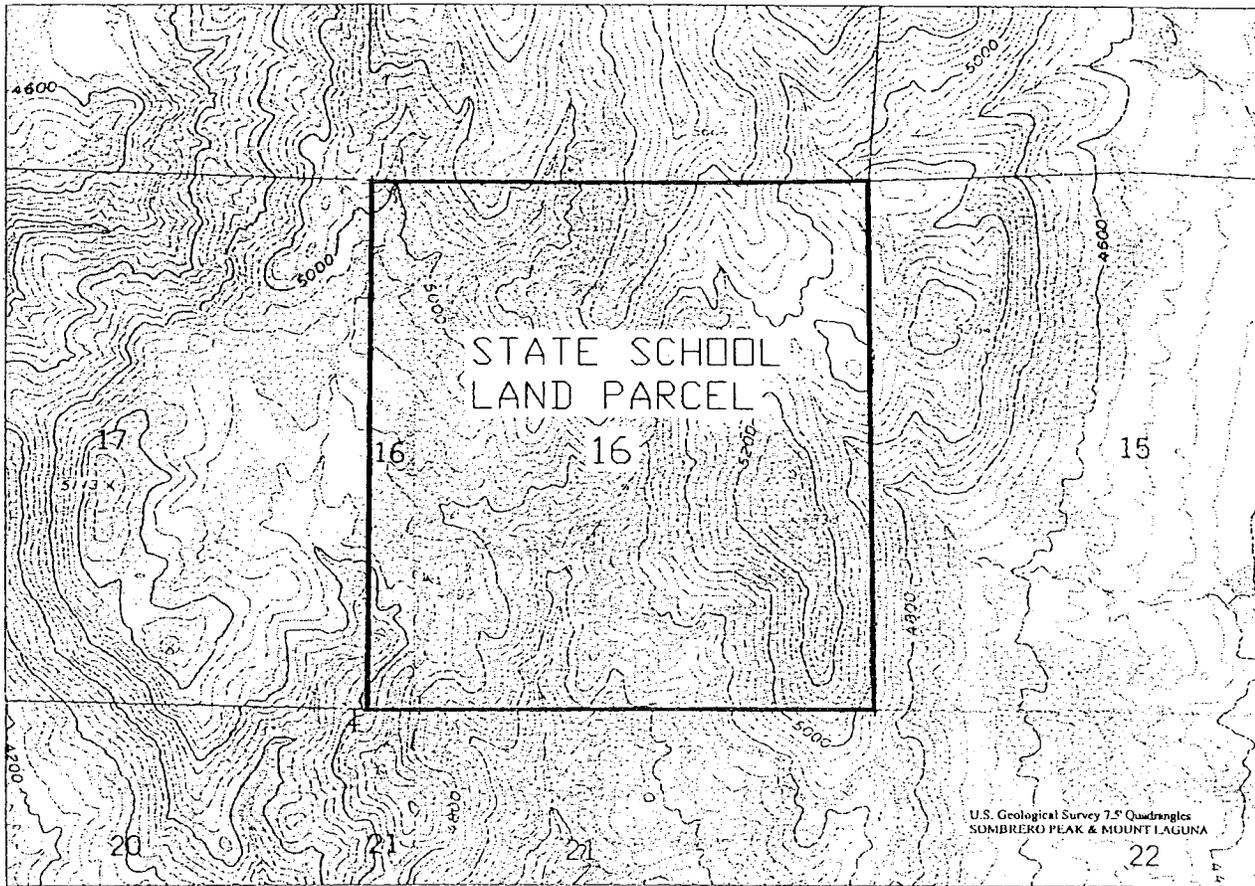
IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND, AS TO THE ISSUANCE OF THE RFP, THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE, IN ACCORDANCE WITH STATE POLICIES AND PROCEDURES, TO ISSUE THE RFP TO SOLICIT BIDS FOR PROPOSALS FOR A GENERAL LEASE-INDUSTRIAL USE TO CONDUCT A WIND MONITORING PROJECT.

NO SCALE

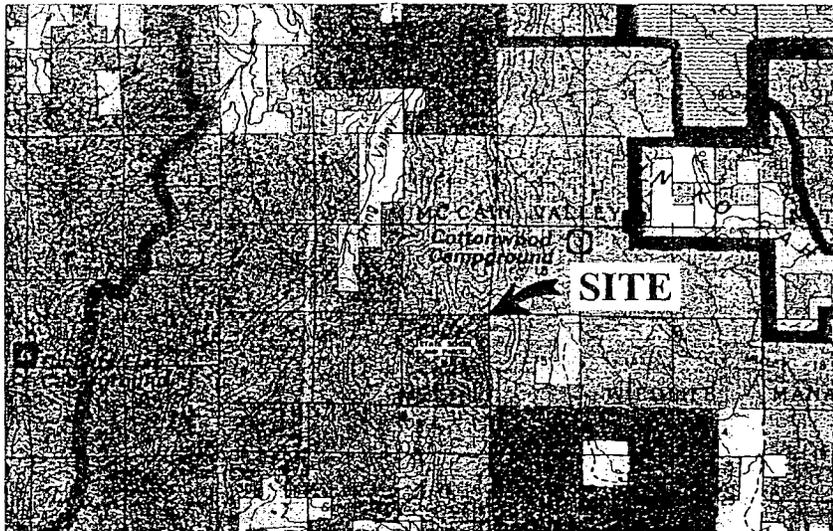
SITE MAP



Section 16 T16S R6E SBBM

NO SCALE

LOCATION MAP



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by Lessee or other parties, and is not intended to be, nor shall it be construed as a waiver or limitation of any state interest in the subject or any other property.

EXHIBIT A

W25973

APN 528-230-09

General Lease - Industrial
San Diego County



DWC 05-05-04

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California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, California 95825
Tel. (916) 574-1865 ♦ Fax (916) 574-2066

EXHIBIT B

REQUEST FOR PROPOSAL

Notice to Prospective Proposers

(Date to be determined), 2004

The California State Lands Commission (CSLC) is seeking proposals from prospective bidders to lease 640± acres of state school lands in San Diego County for a wind monitoring project.

You are invited to review and respond to this Request for Proposal (RFP), entitled "San Diego County Wind Monitoring Project," SCHOOL LANDS BID LOG Number 2004-01. In submitting your proposal, you must comply with the instructions found herein.

Inquiries regarding the processing of the enclosed bid packages should be referred to:

Jim Porter, Public Land Management Specialist
California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, California 95825
Tel. (916) 574-1865 ♦ Fax (916) 574-2066
E-mail: Porterj@slc.ca.gov

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* Annual Rent Proposal shall be contained in a separate sealed envelope and marked “Sealed Rent Proposal - DO NOT OPEN.”

SECTION A

INTRODUCTION

A-1 Agency Mission

The California State Lands Commission (CSLC) serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through economic development, protection, preservation, and restoration.

A-2 Agency Vision

The CSLC works as a team to set the standard for excellence in public land management and resource protection to ensure the future quality of the environment and balanced use of the lands and resources entrusted to its care.

A-3 Background

The CSLC, through its State School Lands Management Program, manages approximately 476,000 acres of school lands held in fee ownership by the State and the reserved mineral interests on an additional 790,000± acres where the surface estates previously have been sold. In 1984 the State Legislature approved the School Land Bank Act, which created the School Land Bank Fund (SLBF) and appointed the CSLC as trustee of the SLBF. Through the establishment of the Act, the Legislature directed the CSLC to manage the remaining school lands to provide an economic base for support of the public school system, rather than continuing to deplete the inventory through land sales. The CSLC is responsible for developing school lands into a permanent and productive resource base for revenue generating purposes.

The CSLC is soliciting proposals for a lease for a wind monitoring project on 640± acres of state school lands located in San Diego County. The property is identified as Section 16, Township 16 South, Range 6 East, San Bernardino Base Meridian, and further identified as APN 528-230-09, San Diego County (hereinafter, "the lease premises" or "the subject property") and shown as attachment to the Proposed Lease - Exhibit A. This proposed wind monitoring lease has been proposed for the subject property by SeaWest WindPower, Inc. (hereinafter, "Project Nominator"). **The minimum bid for this lease shall be \$1,000 per year. In the event that the successful bidder for this lease is not the Project Nominator, then the successful bidder will be responsible for reimbursing the Project Nominator for certain costs associated with the proposed project.** Those costs are described in Exhibit B, attached to this RFP and incorporated herein by reference. The successful bidder, whether the Project Nominator or not, shall also be responsible for all remaining costs associated with the final preparation and approval of this wind monitoring lease. These additional costs may include, but may not necessarily be limited to, billing for additional CSLC staff time and the fulfillment of any documentation required by the CEQA.

A-4 Terms of the Proposed Lease

The purpose of this RFP is to propose a lease for a wind monitoring project to determine the suitability of the subject property for long-term development of a wind-powered facility to generate electrical power. The proposed wind monitoring lease to be considered by the CSLC shall be substantially in the same form as the lease shown as Exhibit A, attached to this RFP and incorporated herein by reference. The basic terms of the proposed lease are summarized as follows:

- 1) The lessee shall be authorized to install and operate not more than two (2) meteorological masts equipped with wind monitoring equipment. Each mast shall be limited to 165 feet in height and shall comply with all applicable federal, state, and local laws and regulations for wind monitoring

equipment. All equipment shall be designed to minimize environmental impacts. The lessor reserves the right to approve the equipment and method of installation used at each equipment site. Each equipment site shall occupy no more than 40,000 square feet of surface area. The location of each mast site shall be mutually agreed upon by the lessor and lessee prior to installation. Installation, maintenance and monitoring of the wind monitoring equipment shall be accomplished by helicopter access only; no access shall be provided to the lease premises via surface roads.

- 2) The lessee shall be authorized to occupy the lease premises for a maximum term of three (3) years. Early termination of the lease shall be permissible upon the mutual written agreement of the lessor and lessee.
- 3) The lessee shall be authorized for exclusive use of the lease premises for wind monitoring purposes. The lessor agrees not to lease the subject property to any other person(s) or public or private entity for the purpose of wind monitoring during the term of the lease. The lessor reserves the right to lease all or any portion of the lease premises for any other non-competing activity.
- 4) The lease shall include, upon the termination of the wind monitoring lease, an option for the lessee for the right of first refusal to apply for a new long-term exclusive lease of the entire 640± acres of the lease premises for the development of a wind-powered electrical generating facility. The terms and conditions of the new lease are unknown at this time. The right of first refusal shall be valid for a period of thirty (30) days after the termination of the wind monitoring lease. Lessee acknowledges that the requirements of the California Environmental Quality Act (CEQA) will apply to the new lease, and that all CSLC staff costs associated with the preparation of the new lease, including but not limited to the preparation of the CEQA document, shall be borne by the lessee. Lessee further acknowledges that submission of scientific data collected by the lessee during the wind monitoring project may be required by the CSLC as part of the development and approval of the new lease terms and conditions. While the lessor would make all reasonable efforts to keep such scientific data confidential, the lessee acknowledges that, once received by the CSLC, such scientific data may become public information. The new long-term exclusive lease for the wind-powered electrical generating facility shall be contingent upon final approval by the Commission. Final approval by the Commission is not guaranteed. The Commission reserves the right to reject the proposed new wind-powered electrical generating facility lease without cause.
- 5) The determining factor in the awarding of this bid shall be the annual rent to be paid by the lessee to the lessor. This bid shall be awarded to the applicant who meets the minimum requirements of this RFP, attains a score of 70 or higher, and bids the highest annual rent for this lease.
- 6) All applicants are given notice that the Subject Property is bordered on the North, East and South by the McCain Valley Resource Conservation Area, which is managed by the U.S. Bureau of Land Management.
- 7) Notice is further given to prospective bidders that the subject property is landlocked, and that any and all costs of obtaining access to the subject property, whether for this lease or any subsequent lease, shall be borne by the lessee.
- 8) The successful bidder shall be required to post a bond to insure the complete removal of all improvements and equipment and the complete remediation of the lease premises upon the termination of the lease.

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SECTION B

PROPOSAL REQUIREMENTS AND GENERAL INFORMATION

B-1 Proposed Time Schedule (subject to change)

It is recognized that time is of the essence. All proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times. This proposed schedule is subject to change at the discretion of the CSLC.

<u>Event</u>	<u>Date</u>
RFP available to prospective proposers	<u>6-8-2004</u>
Technical Question Submittal Deadline	<u>6-22-2004</u>
Proposal Submittal Deadline, 4:00 PM	<u>7-8-2004</u>
Notice of Intent to Award to successful proposer (<i>Estimated</i>)	<u>7-9-2004</u>
Last Day to Protest the Award	<u>7-16-2004</u>
Lease Award (pending CSLC approval)	<u>8-20-2004</u>
Lease processing and execution	<u>8-21-2004</u>

B-2 Question Submittal

Technical questions must be received no later than June 22, 2004 and should be transmitted to Jim Porter by fax at (916) 574-2066 or by e-mail at Porterj@slc.ca.gov. Answers to all questions will be provided via mail or fax, to all parties who received a proposal package, one week prior to submittal deadline of the proposal.

B-3 Property Location

Section 16, Township 16 South, Range 6 East, San Bernardino Base Meridian, and further identified as APN 528-230-09, San Diego County.

B-4 Introduction and Overview

In this section, the proposal should summarize the qualifications of the individual or firm for this project associated with this lease. An overview and general description and schedule for the installation and monitoring of the meteorological masts also should be presented. This portion of the submission should be limited to one or two pages.

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B-5 Minimum and Preferred Qualifications for Proposers

The Proposer must meet and provide evidence of the following minimum qualifications:

At least three years of continuous experience in the installation and operation of wind monitoring equipment and the development and operation of wind-generated electrical power facilities.

B-6 Resume, Reference and Work Sample Information

The following information must be included in the proposal package:

- 1) Resumes for all individuals to be involved in the management decisions for this project.
- 2) Written descriptions of a minimum of two similar projects recently completed that demonstrate performance skills commensurate with the level of work required in this RFP.
- 3) Financial information sufficient to demonstrate the ability to successfully finance and operate a wind monitoring project such as described in this RFP.

B-7 Annual Rent Proposal

The determining factor in the awarding of this bid shall be the annual rent to be paid by the lessee to the lessor. The Rent Proposal shall be contained in a separate sealed envelope and marked "Sealed Rent Proposal – DO NOT OPEN". A Rent Proposal form is provided on Page 11 of this RFP, Annual Rent Proposal Worksheet. The rent proposal shall include an annual lease rate to occupy and utilize the lease premises for the term of the lease as outlined in this RFP. **The annual rent for this proposed lease shall be no less than \$1,000 per year.**

B-8 Submission of Proposal

- 1) A minimum of the original and 3 copies of the proposal must be submitted.
- 2) The original proposal must be marked "ORIGINAL COPY". All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the proposing firm.
- 3) All proposals must be submitted in a **sealed envelope** and delivered to the California State Lands Commission on or before the dates and times shown in Section B, Proposal Requirements and General Information, Item B-1 Time Schedule. Proposals received after this date and time will not be considered.
- 4) The proposal envelopes must be plainly marked with the RFP number and title, your firm name and address, and must be marked with "DO NOT OPEN", as shown in the following example:

(RFP Number and Title)
(Your Firm Name)
(Your Firm Address)
- DO NOT OPEN -

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5) Mail or deliver proposals to the following address:

U.S. Postal Service Deliveries or Hand Deliveries
(UPS, Express Mail, Federal Express)

California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825
Attn: Jim Porter

- 6) Proposers are solely responsible for insuring delivery of their proposal no later than the date and time specified in this RFP. Use of the U.S. Postal Service, express or overnight delivery, or any other service which might result in delayed delivery shall not relieve the Proposers from the conditions of the specified deadline. It is the CSLC's policy to make every effort to ensure that all proposals have been received and properly time stamped; however, proposers are ultimately responsible for ensuring timely receipt of their proposal at the address stated above. Proposers may verify receipt of their proposal by contacting Jim Porter at (916) 574-1865.
- 7) If the proposal is made under a fictitious name or business title, the actual legal name of the proposer must be provided. Proposals not submitted in a sealed envelope and marked as indicated will be rejected.
- 8) The CSLC reserves the right to reject all proposals for reasonable cause. A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. The CSLC may reject any or all proposals and may waive any immaterial deviation in a proposal. The CSLC's waiver of immaterial defect shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if awarded the lease. If all proposals fail to meet the minimum annual rent requirements described in this RFP, the CSLC is not required to award the lease.
- 9) Costs for developing proposals in anticipation of award of the lease are entirely the responsibility of the proposer and shall not be charged to the CSLC.
- 10) An individual who is authorized to bind the proposing firm contractually shall sign the Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.
- 11) A proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline. Proposal modifications offered in any other manner, oral or written, will not be considered.
- 12) The CSLC may modify the RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package.
- 13) Proposers are cautioned to not rely on the CSLC during the evaluation to discover and report to the proposer any defects and errors in the submitted documents. Proposers, before submitting their documents, should carefully proof them for errors and adherence to the RFP requirements.

- 14) More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any proposer has submitted more than one proposal for the lease contemplated herein will cause the rejection of all proposals submitted by that proposer. If there is reason for believing that collusion exists among the proposers, none of the participants in such collusion will be considered in this or future procurements.

B-9 Selection Criteria

Proposals will be evaluated to determine how well the proposer's proposal meets the following:

- 1) Professional experience of the individual or firm in relation to the work to be performed.
- 2) Demonstrated competence and experience of the individual or firm relevant to this project.
- 3) Nature and quality of other completed projects demonstrating expertise in the wind power business.
- 4) Financial soundness of the individual or firm to fulfill the terms and conditions of the proposed lease.

B-10 Proposal Evaluation Process

The proposal evaluation process shall consist of two (2) phases:

Phase I

- 1) The Executive Officer of the CSLC will appoint a panel to review and evaluate the proposals. The members of this panel will be CSLC staff but may also include representatives of other governmental agencies. Each panel member will independently review the responses and determine whose proposal complies with all the requirements and disqualify proposals that do not.
- 2) At the time of proposal opening, each proposal will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP. Members of the appointed panel will evaluate each proposal and determine its responsiveness to the RFP.
- 3) Proposals that contain false or misleading statements or which provide references not supporting an attribute or condition claimed by the proposer may be rejected. If, in the opinion of the CSLC, such information was intended to mislead the CSLC in its evaluation of the proposal, and the attribute, condition, or capability as required in this RFP, it will be the basis for rejection of the proposal. The proposal will be presumed representative of the quality of work done by those submitting it.
- 4) Proposals that meet the minimum qualifications will be evaluated and scored according to the criteria indicated above. A minimum of 70 points must be achieved in this phase to be considered responsive. Responsive means a proposal has met or exceeded the requirements stated in this RFP.

Phase II

- 1) This phase will be the opening of the sealed bid rent proposals. All proposals that enter Phase II will have received 70 points or more and are considered fully capable of fulfilling the terms and conditions of the lease. This agreement will be awarded to the proposer with the highest annual rent proposal meeting all requirements and criteria as stated in the RFP. In the event of equal high bids, the equal high bidders, and only the equal high bidders, will be given the opportunity to re-bid for the proposed lease.
- 2) If no proposals are received containing bids offering an annual rent that equals or exceed the minimum annual rent established in this RFP, then the awarding agency is not required to award a lease.

B-11 Scoring System

Rating/Scoring Criteria	Maximum Possible Points <u>100</u>
1) Compliance with Proposal Format and Satisfaction of Minimum Requirement	Pass/Fail
2) Technical Proposal	Points <u>10</u>
a. Understanding of the lease terms and conditions of the wind monitoring lease as demonstrated by the written proposal submitted. (<u>10 points</u>)	
3) Qualifications and Experience	Points <u>90</u>
a. Capability of the individual or firm to perform wind monitoring and the development of wind-powered facilities to generate electrical power, as demonstrated by the submitted resumes. (<u>20 points</u>)	
b. Ability of the individual or firm to perform wind monitoring and the development of wind-powered facilities to generate electrical power, as demonstrated by the references submitted. (<u>20 points</u>)	
c. Extensive "track record" that demonstrates successful experience in wind monitoring and the development of wind-powered facilities to generate electrical power. (<u>30 points</u>)	
d. Financial responsibility of the proposer, as evidenced by financial information submitted. (<u>20 points</u>)	

B-12 Disposition of Proposals

- 1) Proposals will become public records upon publication of the "Notice of Intent to Award". All documents submitted in response to this RFP will become the property of the CSLC, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public. The CSLC cannot prevent the disclosure of public documents. However, the contents of all proposals, draft proposals, correspondence, agenda, memoranda, working papers, or any other medium that discloses any aspect of a proposer's proposal, shall be held in the strictest confidence until the "Notice of Intent to Award" is posted.
- 2) Proposal packages may be returned only at the proposer's expense, unless such expense is waived by the CSLC.

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ANNUAL RENT PROPOSAL WORKSHEET

I understand that the bid submitted below is for the project identified in the RFP entitled "San Diego County Wind Monitoring Project", School Lands Bid Log Number 2004-01. **I understand that the annual rent for this proposed lease shall be no less than \$1,000 per year and that if I am the successful bidder and I am not the Project Nominator, then I also will be required to reimburse the Project Nominator for the costs incurred by the Project Nominator during the process of nominating this project for development, as detailed in Exhibit B.** The successful bidder, whether the Project Nominator or not, shall also be responsible for all remaining costs associated with the final preparation and approval of this wind monitoring lease. These additional costs may include, but may not necessarily be limited to, billing for additional CSLC staff time and the fulfillment of any documentation required by the CEQA.

In accordance with the proposed lease terms and conditions, the following bid is submitted in response to the bid. I bid:

\$ _____ rent per year.

INDIVIDUAL OR FIRM NAME	FEDERAL I.D.
ADDRESS	TELEPHONE NUMBER
<p><i>In signing this bid, I certify that I am duly authorized to legally bind the bidding firm and present this offer to the California State Lands Commission, that I acknowledge the terms and conditions of the proposed agreement and will execute accordingly if selected. This bid offer shall be valid for 90 days from the date submitted.</i></p>	
SIGNATURE	DATE SIGNED
PRINTED NAME AND TITLE OF PERSON SIGNING	

EXHIBIT A

Proposed Lease

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RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:
STATE OF CALIFORNIA
California State Lands Commission
Attn: Title Unit
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

STATE OF CALIFORNIA
OFFICIAL BUSINESS
Document entitled to free recordation
pursuant to Government Code Section 27383

County: San Diego
APN 528-230-09

SPACE ABOVE THIS LINE FOR RECORDER'S USE

W25973

LEASE PRC

This Lease consists of this summary and the following attached and incorporated parts:

Section 1	Basic Provisions
Section 2	Special Provisions Amending or Supplementing Section 1 and/or Section 4
Section 3	Description of Lease Premises
Section 4	General Provisions

SECTION 1

BASIC PROVISIONS

THE STATE OF CALIFORNIA, hereinafter referred to as Lessor, acting by and through the **CALIFORNIA STATE LANDS COMMISSION** (100 Howe Avenue, Suite 100-South, Sacramento, California 95825-8202), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations, and for consideration specified in this Lease, does hereby lease, demise and let to **(Lessee to be determined)**, hereinafter referred to as Lessee, those certain lands described in Section 3 subject to the reservations, terms, covenants and conditions of this Lease.

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MAILING ADDRESS:

LEASE TYPE: General Lease - Industrial Use

LAND TYPE: School Lands

LOCATION: Section 16, T.16S., R.6E., SBM, San Diego County

LAND USE OR PURPOSE: Exclusive use for wind monitoring purposes.

TERM: 3 years; beginning (to be determined); ending (to be determined), unless sooner terminated as provided under this Lease.

CONSIDERATION: (Rent to be determined) to be paid as specified in Paragraph 2(a)(1) of Section 4 - General Provisions; and subject to modification by Lessor as specified in Paragraph 2(b) of Section 4 - General Provisions.

AUTHORIZED IMPROVEMENTS: Lessee is authorized to install and operate not more than two (2) meteorological masts equipped with wind monitoring equipment. Each mast shall be limited to 165 feet in height and shall comply with all applicable federal, state, and local laws and regulations for wind monitoring equipment. All equipment shall be designed to minimize environmental impacts. The lessor reserves the right to approve the equipment and method of installation used at each equipment site. Each equipment site shall occupy no more than 40,000 square feet of surface area. Installation, maintenance and monitoring of the wind monitoring equipment shall be accomplished by helicopter access only; no access shall be provided to the lease premises via surface roads. Mast locations are identified on Exhibit A.

 EXISTING: None.

 X **TO BE CONSTRUCTED:** No later than December 31, 2004.

LIABILITY INSURANCE: \$1,000,000 Combined Single Limit Coverage.

SURETY BOND OR OTHER SECURITY: (To be determined).

**SECTION 2
SPECIAL PROVISIONS**

**BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED,
REVISED OR SUPPLEMENTED AS FOLLOWS:**

1. Lessee acknowledges and agrees:
 - a. The sites may be subject to hazards from natural geophysical conditions and phenomena, including, but not limited to abandoned mines, earthquakes and erosion.

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- b. To unconditionally waive any claim or damage or liability against the State of California, its agencies, officers, agents, and employees for injury or damage from such hazards.
 - c. To accept the lease premises in an "as is, where is" condition. Lessee assumes all risk of death, bodily injury and property damage arising out of or in connection with the existing abandoned mines. Lessee shall exercise reasonable care and diligence to safeguard its employees, agents, contractors, guests, and invitees from such risks.
2. This lease shall be terminated in whole or in part by the Lessor upon the sale and/or exchange of the land described in Section 3 of this lease. Lessee shall be provided written notice at least 90 days prior to the effective date of the termination of the lease.
 3. Lessee shall take all reasonable and necessary actions to prevent, suppress, and control fires on the lease premises.
 4. Lessee shall take all reasonable and necessary actions to prevent environmental damage on the lease premises.
 5. Lessor agrees not to lease the premises to any other person(s) or business entity for the purposes of wind monitoring or for a wind-powered electricity generating facility during the term of the lease. Lessor reserves the right to lease all or any portion of the premises for any other non-competing activities. See Section 4, Paragraph 5(a)(4).
 6. Upon the expiration or earlier termination of this lease and provided that such early termination is not because of the Lessee's breach or default of the lease, Lessee shall have the right of first refusal to submit a new lease application to the Lessor to lease the premises for the purpose of installing a wind driven electricity-generating facility. The right of first refusal is valid for a period of thirty (30) days after the termination of this wind monitoring lease. The terms and conditions of the new lease are unknown at this time. Lessee acknowledges that the requirements of the California Environmental Protection Act (CEQA) will apply to the new lease, and that all CSLC staff costs associated with the preparation of the new lease, including but not limited to the preparation of the CEQA document, shall be borne by the lessee. Lessee further acknowledges that submission of scientific data collected by the lessee during the wind monitoring project may be required by the CSLC as part of the development and approval of the new lease terms and conditions. While the lessor would make all reasonable efforts to keep such scientific data confidential, the lessee acknowledges that, once received by the CSLC, such scientific data may become public information.

SECTION 3

W25973

LAND DESCRIPTION

Those state owned school lands in the vicinity of Boulevard, San Diego County, California described as follows:

All of Section 16 Township 16 South, Range 6 East, San Bernardino Base Meridian.

END OF DESCRIPTION

Prepared May 04, 2004 by DWC



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SECTION 4

GENERAL PROVISIONS

1. GENERAL

These provisions are applicable to all leases, permits, rights-of-way, easements, or licenses or other interests in real property conveyed by the State Lands Commission.

2. CONSIDERATION

(a) Categories

(1) Rental

Lessee shall pay the annual rental as stated in this Lease to Lessor without deduction, delay or offset, on or before the beginning date of this Lease and on or before each anniversary of its beginning date during each year of the Lease term.

(2) Non-Monetary Consideration

If the consideration to Lessor for this Lease is the public use, benefit, health or safety, Lessor shall have the right to review such consideration at any time and set a monetary rental if the State Lands Commission, at its sole discretion, determines that such action is in the best interest of the State.

(b) Modification

Lessor may modify the method, amount or rate of consideration effective on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary, without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary. No such modification shall become effective unless Lessee is given at least thirty (30) days notice prior to the effective date.

(c) Penalty and Interest

Any installments of rental accruing under this Lease not paid when due shall be subject to a penalty and shall bear interest as specified in Public Resources Code Section 6224 and the Lessor's then existing administrative regulations governing penalty and interest.

3. BOUNDARIES

This Lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary claims which may be asserted presently or in the future.

4. LAND USE

(a) General

Lessee shall use the Lease Premises only for the purpose or purposes stated in this Lease and only for the operation and maintenance of the improvements expressly authorized in this Lease. Lessee shall commence use of the Lease Premises within ninety (90) days of the beginning date of this Lease or within ninety (90) days of the date set for construction to commence as set forth in this Lease, whichever is later. Lessee shall notify Lessor within ten (10) days after commencing the construction of authorized improvements and

within sixty (60) days after completing them. Lessee's discontinuance of such use for a period of ninety (90) days shall be conclusively presumed to be an abandonment.

(b) Continuous Use

Lessee's use of the Lease Premises shall be continuous from commencement of the Lease until its expiration.

(c) Repairs and Maintenance

Lessee shall, at its own expense, keep and maintain the Lease Premises and all improvements in good order and repair and in safe condition. Lessor shall have no obligation for such repair and maintenance.

(d) Additions, Alterations and Removal

(1) Additions - No improvements other than those expressly authorized in this Lease shall be constructed by the Lessee on the Lease Premises without the prior written consent of Lessor.

(2) Alteration or Removal - Except as provided under this Lease, no alteration or removal of improvements on or natural features of the Lease Premises shall be undertaken without the prior written consent of Lessor.

(e) Conservation

Lessee shall practice conservation of water, energy, and other natural resources and shall prevent pollution and harm to the environment. Lessee shall not violate any law or regulation whose purpose is to conserve resources or to protect the environment. Violation of this section shall constitute grounds for termination of the Lease. Lessor, by its executive officer, shall notify Lessee, when in his or her opinion, Lessee has violated the provisions of this section and Lessee shall respond and discontinue the conduct or remedy the condition within 30 days.

(f) Toxics

Lessee shall not manufacture or generate hazardous wastes on the Lease Premises unless specifically authorized under other terms of this Lease. Lessee shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported on the Lease Premises during the Lease term and shall comply with and be bound by all applicable provisions of such federal, state or local law, regulation or ordinance dealing with such wastes, substances or materials. Lessee shall notify Lessor and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.

(g) Enjoyment

Subject to the provisions of paragraph 5 (a) (2) below, nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or activity constitutes a material interference with Lessee's use

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and enjoyment of the Lease Premises as provided under this Lease.

(h) Discrimination

Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, religion, national origin, sex, age, or handicap.

(i) Residential Use

No portion of the Lease Premises shall be used as a location for a residence or for the purpose of mooring a structure which is used as a residence. For purposes of this Lease, a residence or floating residence includes but is not limited to boats, barges, houseboats, trailers, cabins or combinations of such facilities or other such structures which provide overnight accommodations to the Lessee or others.

5. RESERVATIONS, ENCUMBRANCES AND RIGHTS-OF-WAY

(a) Reservations

- (1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to timber and minerals as defined under Public Resources Code Sections 6401 and 6407, as well as the right to grant leases in and over the Lease Premises for the extraction of such natural resources; however, such leasing shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (2) Lessor expressly reserves a right to go on the Lease Premises and all improvements for any purpose associated with this Lease or for carrying out any function required by law, or the rules, regulations or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Lessee owned or occupied lands adjacent to the Lease Premises for any purpose associated with this Lease.
- (3) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this Lease; however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (4) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease.

(b) Encumbrances

This Lease may be subject to pre-existing contracts, leases, licenses, easements, encumbrances and claims and is made without warranty by Lessor of title, condition or fitness of the land for the stated or intended purpose.

6. RULES, REGULATIONS AND TAXES

(a) Lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission or any other governmental agency or entity having lawful authority and jurisdiction.

(b) Lessee understands and agrees that a necessary condition for the granting and continued existence of this Lease is that Lessee obtain and maintain all permits or other entitlements.

(c) Lessee accepts responsibility for and agrees to pay any and all possessory interest taxes, assessments, user fees or service charges imposed on or associated with the leasehold interest, improvements or the Lease Premises, and such payment shall not reduce rental due Lessor under this Lease and Lessor shall have no liability for such payment.

7. INDEMNITY

(a) Lessor shall not be liable and Lessee shall indemnify, hold harmless and, at the option of Lessor, defend Lessor, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause, arising out of or connected in any way with the issuance, enjoyment or breach of this Lease or Lessee's use of the Lease Premises except for any such liability, claims, damage or injury solely caused by the negligence of Lessor, its officers, agents and employees.

(b) Lessee shall notify Lessor immediately in case of any accident, injury or casualty on the Lease Premises.

8. INSURANCE

(a) Lessee shall obtain and maintain in full force and effect during the term of this Lease comprehensive general liability insurance and property damage insurance, with such coverage and limits as may be reasonably requested by Lessor from time to time, but in no event for less than the sum(s) specified, insuring Lessee and Lessor against any and all claims or liability arising out of the ownership, use, occupancy, condition or maintenance of the Lease Premises and all improvements.

(b) The insurance policy or policies shall name the State-of California, its officers, employees and volunteers as insureds as to the Lease Premises and shall identify the Lease by its assigned number. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current. The policy (or endorsement) must provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to Lessor. Lessor will not be responsible for any premiums or other assessments on the

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policy. The coverage provided by the insured (Lessee) shall be primary and non-contributing.

(c) The insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

9. SURETY BOND

(a) Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants and conditions of this Lease.

(b) Lessor may require an increase in the amount of the surety bond or other security device to cover any additionally authorized improvements, alterations or purposes and any modification of consideration.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

10. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

(b) The following shall be deemed to be an assignment or transfer within the meaning of this Lease:

(1) If Lessee is a corporation, any dissolution, merger, consolidation or other reorganization of Lessee or sale or other transfer of a percentage of capital stock of Lessee which results in a change of controlling persons, or the sale or other transfer of substantially all the assets of Lessee;

(2) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

(c) If this Lease is for sovereign lands, it shall be appurtenant to adjoining littoral or riparian land and Lessee shall not transfer or assign its ownership interest or use rights in such adjoining lands separately from the leasehold rights granted herein without the prior written consent of Lessor.

(d) If Lessee desires to assign, sublet, encumber or otherwise

transfer all or any portion of the Lease Premises, Lessee shall do all of the following:

(1) Give prior written notice to Lessor;

(2) Provide the name and complete business organization and operational structure of the proposed assignee, sublessee, secured third party or other transferee; and the nature of the use of and interest in the Lease Premises proposed by the assignee, sublessee, secured third party or other transferee. If the proposed assignee, sublessee or secured third party is a general or limited partnership, or a joint venture, provide a copy of the partnership agreement or joint venture agreement, as applicable;

(3) Provide the terms and conditions of the proposed assignment, sublease, or encumbrancing or other transfer;

(4) Provide audited financial statements for the two most recently completed fiscal years of the proposed assignee, sublessee, secured party or other transferee; and provide pro forma financial statements showing the projected income, expense and financial condition resulting from use of the Lease Premises; and

(5) Provide such additional or supplemental information as Lessor may reasonably request concerning the proposed assignee, sublessee, secured party or other transferee.

Lessor will evaluate proposed assignees, sublessees, secured third parties and other transferees and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability, their business experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors.

(e) Lessor shall have a reasonable period of time from the receipt of all documents and other information required under this provision to grant or deny its approval of the proposed party.

(f) Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions found in a separately drafted standard form (Agreement and Consent to Encumbrancing of Lease) available from Lessor upon request.

(g) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of assignment and not associated with Lessee's use, possession or occupation of

or activities on the Lease Premises; except as to any hazardous wastes, substances or materials as defined under federal state or local law, regulation or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises.

(h) If the Lessee files a petition or an order for relief is entered against Lessee, under Chapters 7,9,11 or 13 of the Bankruptcy Code (11 USC Sect. 101, et seq.) then the trustee or debtor-in-possession must elect to assume or reject this Lease within sixty (60) days after filing of the petition or appointment of the trustee, or the Lease shall be deemed to have been rejected, and Lessor shall be entitled to immediate possession of the Lease Premises. No assumption or assignment of this Lease shall be effective unless it is in writing and unless the trustee or debtor-in-possession has cured all defaults under this Lease (monetary and non-monetary) or has provided Lessor with adequate assurances (1) that within ten (10) days from the date of such assumption or assignment, all monetary defaults under this Lease will be cured; and (2) that within thirty (30) days from the date of such assumption, all non-monetary defaults under this Lease will be cured; and (3) that all provisions of this Lease will be satisfactorily performed in the future.

11. DEFAULT AND REMEDIES

(a) Default

The occurrence of any one or more of the following events shall immediately and without further notice constitute a default or breach of the Lease by Lessee:

- (1) Lessee's failure to make any payment of rental, royalty, or other consideration as required under this Lease;
- (2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease;
- (3) Lessee's vacation or abandonment of the Lease Premises (including the covenant for continuous use as provided for in paragraph 4) during the Lease term;
- (4) Lessee's failure to obtain and maintain all necessary governmental permits or other entitlements;
- (5) Lessee's failure to comply with all applicable provisions of federal, state or local law, regulation or ordinance dealing with hazardous waste, substances or materials as defined under such law;
- (6) Lessee's failure to commence to construct and to complete construction of the improvements authorized by this Lease within the time limits specified in this Lease; and/or
- (7) Lessee's failure to comply with applicable provisions of federal, state or local laws or

ordinances relating to issues of Health and Safety, or whose purpose is to conserve resources or to protect the environment.

(b) Lessee's failure to observe or perform any other term, covenant or condition of this Lease to be observed or performed by the Lessee when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach under this paragraph is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

(c) Remedies

In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may at any time and with or without notice do any one or more of the following:

- (1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises;
- (2) Terminate this Lease and Lessee's right of possession of the Lease Premises. Such termination shall be effective upon Lessor's giving written notice and upon receipt of such notice Lessee shall immediately surrender possession of the Lease Premises to Lessor;
- (3) Maintain this Lease in full force and effect and recover any rental, royalty, or other consideration as it becomes due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises; and/or
- (4) Exercise any other right or remedy which Lessor may have at law or equity.

12. RESTORATION OF LEASE PREMISES

(a) Upon expiration or sooner termination of this Lease, Lessor upon written notice may take title to any or all improvements, including fills, or Lessor may require Lessee to remove all or any such improvements at its sole expense and risk; or Lessor may itself remove or have removed all or any portion of such improvements at Lessee's sole expense. Lessee shall deliver to Lessor such documentation as may be necessary to convey title to such improvements to Lessor free and clear of any liens, mortgages, loans or any other encumbrances.

(b) In removing any such improvements Lessee shall restore the Lease Premises as nearly as possible to the conditions existing prior to their installation or construction.

(c) All plans for and subsequent removal and restoration

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shall be to the satisfaction of Lessor and shall be completed within ninety (90) days after the expiration or sooner termination of this Lease or after compliance with paragraph 12(d), whichever is the lesser.

(d) In removing any or all the improvements Lessee shall be required to obtain any permits or other governmental approvals as may then be required by lawful authority.

(e) Lessor may at any time during the Lease term require Lessee to conduct at its own expense and by a contractor approved by Lessor an independent environmental site assessment or inspection for the presence or suspected presence of hazardous wastes, substances or materials as defined under federal, state or local law, regulation or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises during the term of the Lease. Lessee shall provide the results of the assessment or inspection to Lessor and the appropriate governmental response agency(ies) and shall further be responsible for removing or taking other appropriate remedial action regarding such wastes, substances or materials in accordance with applicable federal, state or local law regulation or ordinance.

13. QUITCLAIM

Lessee shall, within ninety (90) days of the expiration or sooner termination of this Lease, execute and deliver to Lessor in a form provided by Lessor a good and sufficient release of all rights under this Lease. Should Lessee fail or refuse to deliver such a release, a written notice by Lessor reciting such failure or refusal shall, from the date of its recordation, be conclusive evidence against Lessee of the termination of this Lease and all other claimants.

14. HOLDING-OVER

Any holding-over by Lessee after the expiration of the Lease term, with or without the express or implied consent of Lessor, shall constitute a tenancy from month to month and not an extension of the Lease term and shall be on the terms, covenants, and conditions of this Lease, except that the annual rental then in effect shall be increased by twenty-five percent (25%).

15. ADDITIONAL PROVISIONS

(a) Waiver

(1) No term, covenant, or condition of this Lease and no default or breach of any such term, covenant or condition shall be deemed to have been waived, by Lessor's acceptance of a late or nonconforming performance or otherwise, unless such a waiver is expressly acknowledged by Lessor in writing.

(2) Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition of any other default or breach of any term, covenant or condition of this Lease.

(b) Time

Time is of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

(c) Notice

All notices required to be given under this Lease shall be given in writing, sent by U.S. Mail with postage prepaid, to Lessor at the offices of the State Lands Commission and the Lessee at the address specified in this Lease. Lessee shall give Lessor notice of any change in its name or address.

(d) Consent

Where Lessor's consent is required under this Lease its consent for one transaction or event shall not be deemed to be a consent to any subsequent occurrence of the same or any other transaction or event.

(e) Changes

This Lease may be terminated and its term, covenants and conditions amended, revised or supplemented only by mutual written agreement of the parties.

(f) Successors

The terms, covenants and conditions of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, successors, and assigns of the respective parties.

(g) Joint and Several Obligation

If more than one Lessee is a party to this Lease, the obligations of the Lessees shall be joint and several.

(h) Captions

The captions of this Lease are not controlling and shall have no effect upon its construction or interpretation.

(i) Severability

If any term, covenant or condition of this Lease is determined by a court of competent jurisdiction to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms, covenants and conditions.

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STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE P.R.C. NO. _____

This Lease shall become effective only when approved by and executed on behalf of the State Lands Commission of the State of California and a duly executed copy has been delivered to Lessee. The submission of this Lease by Lessor, its agent or representative for examination by Lessee does not constitute an option or offer to lease the Lease Premises upon the terms and conditions contained herein, or a reservation of the Lease Premises in favor of Lessee. Lessee's submission of an executed copy of this Lease to Lessor shall constitute an offer to Lessor to lease the Lease Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

LESSEE

STATE OF CALIFORNIA
STATE LANDS COMMISSION

By: _____

Title: _____

Date: _____

ACKNOWLEDGEMENT

This Lease was authorized by the
California State Lands Commission on

(Month Day Year)

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EXHIBIT B

(Summary of Project Nominator's
Reimbursable Expenses - To Be -Supplied)

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