

**CALENDAR ITEM
C17**

A 15
S 5

02/05/07
WP 4194.1
V. Caldwell

ASSIGNMENT, APPROVAL OF SUBLEASE, AND AN AMENDMENT OF LEASE

LESSEE/ASSIGNOR:

Tower Park Marina Investors, L.P.
16633 Venture Blvd. Ste 600
Encino, California 91436-1835

ASSIGNEE/ SUBLESSOR:

Kampgrounds of America, Inc. (KOA)
550 N. 31st Street, TW3 Fourth Floor
Billings, Montana 59101

SUBLESSEES:

Tower Park Marina Investors, L.P.	Pacific Boat Detailing
Boatfixerguy	West Coast Canvas
Tower Park Boat Sales	T&L Restaurant Enterprises, Inc.
Delta Wakeboards	MarineMax of California, Inc.

AREA, LAND TYPE, AND LOCATION:

13.93 acres, more or less, of sovereign lands in Little Potato Slough, near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

A commercial marina which accommodates approximately 365 boats, a restaurant, sewage pumpout, boat elevator/launch ramp, banquet room, canvas shop, six fuel pumps, offices, and ancillary facilities.

LEASE TERM:

30 years, beginning January 1, 1999.

CALENDAR ITEM NO. **C17** (CONT'D)

CONSIDERATION:

A minimum annual rental of \$40,172, against a percentage of gross receipts:

- 5.5% of gross income for the berthing, mooring and launching of boats.
- 1.5% of gross income for the operation of a restaurant, bar and banquet room.
- 5% of gross income for retail business/store, boat rental, and boat repair.
- 0.5% of the total price from boat sales.
- 25% of the gross income from the vending and electronic game machines.
- 10% of all other gross income, including office use.

Fuel Sales: 1-1/2 cents per gallon for fuel sales under 100,000 gallons; 2 cents per gallon for fuel sales over 100,000 gallons.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance with a coverage of no less than \$1,000,000

Bond:

\$20,000

OTHER PERTINENT INFORMATION:

1. Assignee will own the uplands adjoining the lease premises at close of escrow.
2. On June 14, 1999, the Commission authorized a 25-year General Lease - Commercial Use to Tower Park Marina Investors, L.P. for a commercial marina. Subsequently, on August 19, 2003, the Commission authorized an Amendment of Lease PRC 4194.1. The Amendment, among other things, changed the term of the lease to 30 years beginning January 1, 1999. On August 19, 2003, the Commission also approved an Encumbrancing Agreement to allow the leasehold interest to be used to secure a loan. The lease will expire on December 31, 2029. Tower Park Marina Investors, L.P. is currently in escrow with Kampgrounds of America, Inc., to purchase the upland.
3. The Lessee is now requesting that the Commission authorize the assignment of the Lease PRC 4194.1 to Kampgrounds of America, Inc. Kampgrounds of America, Inc., will sublease to Tower Park Marina Investors, L.P. the marina operations, including fuel sales, wet and dry

CALENDAR ITEM NO. **C17** (CONT'D)

boat storage, transient docking, boat trailer storage, boat repair and maintenance, boat launch, and any other related marina service.

4. The Lessee has eight subleases which operate businesses within the lease premises. All of the subleases will be assigned to Kampgrounds of America, Inc., at the close of escrow. The subleases involve the following: Ramon Mata operates a boat detailing and maintenance shop under the name of Pacific Boat Detailing; Robert Coons and Jenta Houston operate a boat and engine repair shop under the name of Boatfixerguy; Curtis Grant Page operates a boat repair/canvas shop under the name of West Coast Canvas; Gerald E. Erwin sells boats under the name of Tower Park Boat Sales; T&L Restaurant Enterprises, Inc., operates a restaurant and banquet facility; Tom Conway operates a retail wakeboard shop and offers wakeboard instructions to the general public, plus waverunner rentals under the name of Delta Wakeboards; and MarineMax of California, Inc., operates a boat sales and service shop. Staff of the Commission has reviewed these subleases and has concluded they are consistent with the terms of the lease.
5. The lease will be amended to contain provisions that will implement the Commission's "Best Management Practices for Marina Owners/Operators" and incorporate the Commission's "Best Management Practices for Berth Holders and Boaters" into Assignee/Lessee's berth rental agreements, and include the additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. Lessee shall post "BMPs for Berth Holders and Boaters" in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease amendment and triennially thereafter, a report on compliance with all BMPs.
6. The Lessee will provide a copy of the reconveyance document showing the encumbrance to the lease, which was approved by the Commission in 2003, has been paid.
7. 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.

CALENDAR PAGE

MINUTE PAGE

CALENDAR ITEM NO. C17 (CONT'D)

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

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Site Map
- B. Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE 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.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE THE ASSIGNMENT OF LEASE NO. PRC 4194.1, A GENERAL LEASE - COMMERCIAL USE, OF SOVEREIGN LANDS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, FROM TOWER PARK MARINA INVESTORS, L.P. TO KAMPGROUNDS OF AMERCIA, INC; EFFECTIVE ON THE CLOSE OF ESCROW.

CALENDAR ITEM NO. C17 (CONT'D)

2. AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 4194.1, A GENERAL LEASE – COMMERCIAL USE, OF SOVEREIGN LANDS AS SHOWN ON EXHIBIT A ATTACHED AND BY REFERENCE MADE A PART HEREOF, EFFECTIVE FEBRUARY 5, 2007, TO ADD PROVISIONS INVOLVING BEST MANAGEMENT PRACTICES; ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.
3. AUTHORIZE THE SUBLEASE BETWEEN KAMPGROUNDS OF AMERICA, INC., AND TOWER PARK MARINA INVESTORS, L.P., OF A PORTION OF LEASE NO. PRC 4194.1, FOR A TERM OF TEN YEARS.
4. AUTHORIZE THE SUBLEASE BETWEEN KAMPGROUNDS OF AMERICA, INC., AND RAMON MATA, DBA PACIFIC BOAT DETAILING, OF A PORTION OF LEASE NO. PRC 4194.1, EFFECTIVE JULY 8, 2004, FOR A TERM OF THREE YEARS, FOR A BOAT DETAILING AND MAINTENANCE BUSINESS.
5. AUTHORIZE THE SUBLEASE BETWEEN KAMPGROUNDS OF AMERICA, INC., AND ROBERT COONS AND JENTA HOUSTON, DBA BOATFIXERGUY, OF A PORTION OF LEASE NO. PRC 4194.1, EFFECTIVE AUGUST 1, 2005, AND ENDING JUNE 20, 2007, FOR A BOAT AND ENGINE REPAIR BUSINESS.
6. AUTHORIZE THE SUBLEASE BETWEEN KAMPGROUNDS OF AMERICA, INC., AND GRANT PAGE, DBA WEST COAST CANVAS, OF A PORTION OF LEASE NO. PRC 4194.1, EFFECTIVE AUGUST 1, 2006, FOR A TERM OF FIVE YEARS, FOR A CANVAS AND AWNING INSTALLATION AND REPAIR BUSINESS.
7. AUTHORIZE THE SUBLEASE BETWEEN KAMPGROUNDS OF AMERICA, INC., AND GERALD E. ERWIN, DBA TOWER PARK BOAT SALES, OF A PORTION OF LEASE NO. PRC 4194.1, EFFECTIVE APRIL 1, 2006, FOR A TERM OF THREE YEARS, FOR A BOAT SALE BUSINESS.

CALENDAR ITEM NO. **C17** (CONT'D)

8. AUTHORIZE THE SUBLEASE BETWEEN KAMPGROUNDS OF AMERICA, INC., AND T&L RESTAURANT ENTERPRISES, INC., OF A PORTION OF LEASE NO. PRC 4194.1, EFFECTIVE DECEMBER 27, 2005, AND ENDING JANUARY 15, 2008, FOR THE OPERATION OF A RESTAURANT AND BANQUET FACILITY.

9. AUTHORIZE THE SUBLEASE BETWEEN KAMPGROUNDS OF AMERICA, INC., AND TOM CONWAY, DBA DELTA WAKEBOARDS, OF A PORTION OF LEASE NO. PRC 4194.1, EFFECTIVE OCTOBER 15, 2006, AND ENDING DECEMBER 31, 2008, FOR THE OPERATION OF A WAKEBOARD RETAIL SHOP, WAKEBOARD INSTRUCTIONS, AND WAVERUNNER RENTALS.

10. AUTHORIZE THE SUBLEASE BETWEEN KAMPGROUNDS OF AMERICA, INC., AND MARINEMAX OF CALIFORNIA, INC., OF A PORTION OF LEASE NO. PRC 4194.1, EFFECTIVE MAY 19, 2005, AND ENDING MAY 31, 2008, FOR THE OPERATION OF A BOAT SALES AND SERVICE BUSINESS.