

*cc-278*

CITY COUNCIL MEETING

OCTOBER 19, 1983

APPROVAL OF  
WHITE SLOUGH  
LEASE AGREEMENT

Following introduction of the matter by Public Works Director Rorsko, Council, on motion of Council Member Pinkerton, Snider second, approved the proposed White Slough Lease Agreement with Al Bechthold and authorized the City Manager and City Clerk to execute the subject agreement on behalf of the City.

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# CITY OF LODI

PUBLIC WORKS DEPARTMENT

## COUNCIL COMMUNICATION

**TO:** City Council  
**FROM:** City Manager  
**DATE:** October 13, 1983  
**SUBJECT:** Approval of White Slough Lease Agreement with Al Bechthold

RECOMMENDED ACTION: That the City Council authorize the City Manager to execute the attached agreement between the City of Lodi and Mr. Al Bechthold covering the use of the White Slough property.

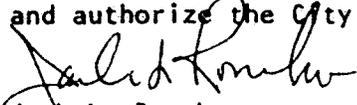
BACKGROUND INFORMATION: At the regular Council meeting of August 3, 1983, the City Council directed the staff to renegotiate the lease agreement on the White Slough property with our present lessee Mr. Bechthold. It was considered to be in the City's best interest to renegotiate since we do have an excellent working relationship with Mr. Bechthold and he is considered an exceptional lessee.

Attached is the proposed agreement, the concept of which has been reviewed and approved by the City Attorney. This lease is for five years and would commence January 1, 1984. The existing lease has a rental amount of \$65.00 per acre, whereas under the new lease, the rental has been increased to \$82.00 per acre. The lessee has also agreed to perform at his cost (\$30,000±) major land leveling all of the land being rented over a 5-year period in return for an additional 5-year lease rental option. This proposed landleveling will definitely increase the future value of this White Slough property.

The total annual rent under the new agreement will be \$34,522.00 for 421 acres of pasture and agricultural land. It should be pointed out that the use of the land is restricted and regulated by the State Health Department since the land is being irrigated by plant effluent.

The format of the new lease agreement will start on January 1, 1984, and terminate on December 31, 1984, rather than per the old agreement, which was November 1 to October 31.

It is felt that the above conditions are equitable, fair and in the City's best interest, and it is therefore recommended that the Council approve and authorize the City Manager to execute the attached agreement.

  
Jack L. Ronsko  
Public Works Director

Attachment  
JLR:dmw

cc: Water/Sewer Supervisor  
Mr. Al Bechthold

APPROVED:

HENRY A. GLAVES, City Manager

FILE NO.



L E A S E

THIS LEASE, made and entered into this \_\_\_\_\_ day of October, 1983, by and between the CITY OF LODI, a municipal corporation, hereinafter called "LESSOR", and ALFRED B. BECHTHOLD, dealing with his sole and separate property, hereinafter called "LESSEE";

W I T N E S S E T H:

1. PROPERTIES: That for and in consideration of the rents to be paid, and the covenants to be faithfully kept and performed by the said Lessee, the said Lessee does hereby lease, hire, and take from the said Lessor, those certain properties described as follows:

Those certain properties described in Exhibit "A" attached hereto, and by this reference, made part hereof. Property to be leased totals 421 acres.

2. TERM: The term of this Lease shall be for a period of five (5) years and two (2) months, commencing November 1, 1983 and terminating at midnight on December 31, 1988.

3. RENT: In consideration of said Lease, Lessee agrees to pay to Lessor, as rent for the demised premises, the sum of \$82.00 per acre per year, during the initial five-year two-month term hereof. The rental for the months of November and December will be \$2,876.83 per month and will be paid on or prior to November 1, 1983, and December 1, 1983. Yearly rental

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shall then be paid annually, to wit: The sum of \$34,522.00 on or before January 1 of each year during the initial term thereof.

4. OPTION TO RENEW LEASE: Provided Lessee has complied with all of the terms and conditions of this Lease on his part to be performed, Lessor hereby grants to Lessee an exclusive option to renew this Lease, subject to the same uses and conditions for the additional term of five (5) years and joint agreement on a renegotiated rental price. Lessee must notify Lessor, in writing, of his intention to exercise this successive five-year option at least six (6) months prior to the expiration of the initial term, or six (6) months prior to the expiration of any additional term.

In the event Lessee fails to exercise his option to renew this Lease for the period January 1, 1988 to December 31, 1993, the Lessee shall, on or before December 31, 1988 furnish to Lessor a Quitclaim Deed to the properties leased.

5. USE: The properties shall be used solely for the purpose of pasturing cattle or growing, cultivating, fertilizing, irrigating, and harvesting of agricultural crops. During the initial term of this Lease, and any extension thereof, it is understood and agreed by the parties hereto that Lessee shall be required to accept all industrial wastewater from City's White Slough sewer treatment facilities (approximately 300 million gallons per year). Lessor will also make available all excess domestic effluent, at no cost to the Lessee, upon the Lessee's request.

2.4

It is further understood and agreed by Lessee that Lessee must comply with all present and future laws, ordinances, rules, and regulations promulgated by any Governmental authority of competent jurisdiction regulating the type of crops that can be grown on the properties during the lease term and any extension thereof. Lessee accepts the properties with the full understanding that the present State Department of Health regulations will limit Lessee to growing only fodder, fibre, or seed crops once wastewater is discharged on the properties. Further, Lessee shall be permitted to use the properties for any use consistent with the terms of the within Lease and those uses permitted by all governmental authorities, including, but not limited to, the California State Department of Health. Further, Lessee agrees to manage the irrigation of the properties with industrial wastewater and treated effluent from the White Slough plant in such a manner that it will not allow the discharge of runoff water to White Slough and meet all regulations imposed by all governmental authorities having proper jurisdiction, including, but not limited to, the Central Valley Regional Water Quality Control Board. Lessee shall use and occupy said premises in a quiet, lawful, and orderly manner. Lessor and Lessee further agree that they shall permit no hunting, fishing, or public access to any part of the properties, including Lessee.

6. REMEDIES ON DEFAULT: Should Lessee fail to pay any part of the rents herein specified, at the times, or in the manner herein provided, or fail to comply with or perform any

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other of the terms and provisions of this Lease on the part of Lessee to be performed or complied with, then, and in that event, Lessor may exercise any and all remedies provided by law or equity by reason of such default, including the right, at Lessor's option, of terminating this Lease. In any of such events, Lessor shall be entitled to the immediate possession of said leased premises, and, at its option, may enter into, and upon, said premises, without notice to Lessee, and exclude Lessee and all persons and all property therefrom, and by process of law, or otherwise, take and resume possession of said premises. Each and all of Lessor's remedies shall be construed as cumulative, and no one of them as exclusive of the other, or as exclusive of any remedy provided by law or equity.

7. RELATIONSHIP OF PARTIES: It is understood and agreed that the relationship between the parties is that of landlord and tenant and not as a party or agent of Lessor. Lessee, or his subtenant, shall carry workmen's compensation insurance and observe all laws and regulations applicable to employers.

8. DITCH, ROAD, AND PROPERTY MAINTENANCE: Lessee shall maintain and pay all costs of maintaining the irrigation lines, ditches, fences, and all access roads located on the properties. Lessee, at his sole cost and expense, shall provide an adequate drainage system and agrees to cause to be cleaned within a reasonable time, when requested by Lessor to do so, the drainage ditches located on the properties. Lessee shall further be responsible, at his sole cost and expense, for

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maintaining and repairing all improvements located on the properties, including, but not limited to, all buildings, canals, corrals, and other improvements of any nature whatsoever located on the demised premises.

9. IMPROVEMENTS BY LESSEE: The Lessee agrees to perform landleveling of all the properties being leased, over the initial term (5-year period) of this lease.

10. ASSIGNMENT AND SUBLETTING: Lessee shall not assign this Lease, in whole or any part, without first obtaining the written consent of Lessor. Lessee shall be permitted to sublet the properties to a responsible person, firm, or corporation, but any such subletting or use by another person, firm, or corporation shall in no way release Lessee from the obligation, conditions, and terms of this Lease. Lessee shall furnish in writing to Lessor the name of any subtenant, and any sublease entered into by Lessee shall incorporate the terms, provisions, and conditions of this Lease.

11. ENTRY BY LESSOR: Lessor shall have the right at all reasonable times during the term of this Lease to enter the said leased premises for the purpose of examining or inspecting the same.

12. REPAIRS: Lessee shall be solely responsible for all repairs to the properties. Lessee shall notify Lessor, in writing, of any alterations, or additions, to the leased premises, and major alterations, or any alteration that would interfere with Lessor's wastewater discharges on the leased premises shall be first approved by Lessor before the same is

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made. All alterations, additions, and improvements made in, to, or on the demised premises, shall, immediately upon the installation thereof, become, and be, the property of the Lessor, and shall remain upon, and be surrendered with, the premises.

13. SURRENDER OF PREMISES: Lessee shall, at the termination of the term hereby created, or upon the earlier termination hereof for any reason, or upon the extension of the term herein set forth, quit and surrender said premises in good order, condition, and repair, reasonable wear and tear and acts of God or fire excepted.

14. FEES: Lessee shall pay all license fees, or other fees, levied by any governmental agency which may be imposed upon the business of Lessee or his subtenant conducted upon the premises.

If any of the above charges are assessed against the real property, and because of said assessment, the Lessor pays the same, which Lessor will have the right to do regardless of the validity of any such levy, the Lessee, upon demand, will repay to the Lessor all taxes and other assessments so levied against the Lessor which are due by the Lessee.

15. UTILITIES: Lessee agrees to pay during the term hereof, all utilities of any nature whatsoever used upon said leased premises except for that sump return pump located on the south property line.

16. WASTE: Lessee shall not maintain or commit, nor suffer to be maintained or committed, any nuisance or waste in

or about said leased premises, nor do or permit anything to be done in or about said premises, nor keep anything therein, which will in any way conflict with any law, ordinance, rule, or regulation affecting the occupancy and use of said premises, which have been, or may hereafter be, enacted or promulgated by any public authority.

17. MECHANIC'S LIEN: Lessee agrees to keep said premises free from all liens and claims of mechanics, laborers, materialmen, and others for work done, and materials furnished, and Lessee shall not create, or suffer to be created, any lien or encumbrance on said premises.

18. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE: Lessee agrees to indemnify and save harmless Lessor from and against all claims of whatever nature, arising from any act, omission, or negligence of Lessee or Lessee's contractors, licensees, agents, servants, or employees, or arising from any accident, injury, or damage whatsoever caused any person, or to the property of any person, occurring during the term hereof, in or about the demised premises where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Lessee, or Lessee's agents or employees. This indemnity and hold harmless agreement shall include indemnity against all costs and expenses, including attorney's fees incurred in or in connection with any such claim or proceeding brought thereon and the defense thereof.

Lessee agrees to maintain in full force during the term hereof a policy of public liability insurance under which Lessee is named as insured, and containing an Additional Named Insured Endorsement naming Lessor as an additional insured, and under which the insurer agrees to indemnify and hold Lessee and Lessor harmless from, and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or about the demised premises; where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Lessee, or Lessee's agents or employees. The minimum limits of such insurance shall be \$500,000.00/

\$1,000,000.00. In addition to the Additional Named Insured Endorsement on Lessor's policy of insurance, said insurance policy shall be endorsed to include the following language:

"Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Modi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

A duplicate or certificate of said public liability and property damage insurance containing the above-stated required endorsements shall be delivered to Lessor within ten (10) days

after the issuance and each renewal of said policy. This paragraph and all other provisions of this Lease, shall apply and be construed as applying to any subtenant of Lessee.

19. BANKRUPTCY, RECEIVERSHIP, AND INSOLVENCY: If Lessee should make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or be adjudicated bankrupt or insolvent, or permit a receiver to be appointed to take possession of a substantial portion of his assets or of this leasehold, and such bankruptcy, insolvency, or receivership proceeding shall not be dismissed within ninety (90) days, then Lessor may, without notice or demand, terminate this Lease and forthwith re-enter and repossess the properties, and remove all persons therefrom, and under no circumstances, shall this Lease be assignable or transferable by operation of law.

20. EMINENT DOMAIN: If the whole or any portion of the premises hereby leased shall be taken by any public authority under the power of eminent domain, whether by negotiation or otherwise, then the term of this Lease shall cease as of the date possession is taken by such authority as to that portion taken, and the rental thereafter due or payable shall be reduced for the portion taken at the rental rate per acre then in affect. All damages awarded for such taking under the power of eminent domain, whether for the whole or a part of the leased premises, shall be the property of Lessor. Provided, however, that Lessor shall not be entitled to any award made to

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Lessee for loss of business, business leasehold improvements and crops.

21. ATTORNEY'S FEES: In each suit brought for the recovery of any rent due hereunder, or for the recovery of the possession of said demised premises, or for the breach, or to restrain the breach, of any of the terms, conditions, or covenants of this Lease, the prevailing party shall be entitled to a reasonable sum as and for attorney's fees therein, the amount of which shall be determined by the Court in such suit and added to, and become a part of the judgment therein.

22. WAIVER: Failure of Lessor to insist upon performance of any of the terms or conditions of this Lease in any one or more instances shall in no event be construed as a waiver or a relinquishment of its right to future performance thereof, and Lessee's obligations to such future performance shall continue in full force and effect. The receipt by Lessor of rent, the knowledge of the breach of any agreement or condition hereof, shall not be determined to be a waiver of any such breach.

23. ACCEPTANCE OF LEASEHOLD ESTATE: Lessee has examined the leased premises; knows the conditions thereof; and accepts possession thereof in their condition.

24. LESSEE'S OPTION TO TERMINATE LEASE: Lessee shall be permitted to terminate this Lease, at his option, in the event governmental laws, rules, or regulations, including, but not limited to, those promulgated by the California State Department of Health, prohibit the growing of any crop on the

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properties. In the event Lessee terminates this Lease as above provided, rent shall be prorated to date of termination.

Lessee shall be permitted to terminate this Lease for whatever reason if 6 months' prior notice is given to Lessor. Rent shall be prorated to date of termination.

25. CONTRACT: This written agreement constitutes the entire contract between the Lessee and Lessor, and no representation or agreement, unless expressed herein, shall be binding on the Lessor or Lessee.

26. LESSEE shall be permitted reasonable access over adjacent City property owned by Lessor for ingress and egress purposes.

27. BINDING ON HEIRS: This Lease shall include and inure to, and bind the heirs, executors, administrators, successors, and assigns of the respective parties hereto, but nothing in this paragraph contained shall be construed to modify or impair in any manner any of the provisions and restrictions of this Lease relating to the assignment of this Lease, or of any interest therein, or to the subletting or underletting of said leased premises or any part thereof.

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IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease on the date and year first above written.

CITY OF LODI, a municipal corporation

By \_\_\_\_\_  
Henry A. Graves  
City Manager

Hereinabove called "LESSOR"

\_\_\_\_\_  
Alfred B. Bechthold

Hereinabove called "LESSEE"

Attest:

\_\_\_\_\_  
Alice M. Reimche, City Clerk

10/19

K5



# CITY OF LODI

## COUNCIL COMMUNICATION

TO: City Council  
 FROM: City Manager  
 DATE: July 26, 1983  
 SUBJECT: Renegotiation of White Slough Lease Agreement with Mr. Al Bechthold

**RECOMMENDED ACTION:** That the City Council authorize the staff to start renegotiation of the lease agreement on the White Slough property with the present lessee, Mr. Bechthold.

**BACKGROUND INFORMATION:** Attached is a letter from Mr. Bechthold, dated May 12, 1983 requesting to renegotiate the existing lease which terminates November 1, 1983.

Mr. Bechthold has been an excellent lessee the past ten (10) years, and has made many permanent improvements to the City property, such as nine (9) miles of new fencing and 14 permanent gates. He has been considerably handicapped over the past three (3) winters due to flooding of some 175 acres of the 434 presently leased. Mr. Bechthold has assisted City staff members in requesting the State of California to cease and desist the annual threatening flood waters.

The City's major concern is to lease to a party who will be able to work with us in using the plant effluent for irrigation at those times that it must be released. We have an excellent working relationship with Mr. Bechthold, and he has cooperated and worked with us in every way possible. Mr. Bechthold is considered an exceptional lessee.

This item is brought to the Council to consider authorizing the City staff to start negotiating for a new lease agreement. It is felt that it is in the City's best interest to negotiate with Mr. Bechthold now in order that a new agreement can be approved prior to November 1983. This would allow Mr. Bechthold to continue to make permanent improvements to our property and would assure us of a lessee whom we know can work with us under the terms of the agreement.

If you have any questions concerning this matter, I'll answer them at the next Council meeting.

*Jack L. Ronsko*  
 Jack L. Ronsko  
 Public Works Director

cc: Water/Sewer Supervisor

APPROVED:

HENRY A. GLAVES, City Manager

FILE NO.

# Lima Ranch

13436 N. THORNTON ROAD  
LODI, CALIFORNIA 95240

RECEIVED

1983 JUL 15 AM 9:47

ALICE M. REIMCHE  
CITY CLERK  
CITY OF LODI

K5

July 14, 1983

City Manager  
Henry Graves  
P.O. Box 320  
Lodi, California 95241

Re: City Property on Thornton Road

Mr. Graves,

I am very interested in submitting a bid on the City Property when it comes up for rent. I own Lima Ranch, which is located next to the City land. I also farm 400 acres directly across from the land.

Last winter 100 acres of the land was flooded when the levee broke; so I am aware of the problems that could exist. I am also aware that the land belongs to the city and their needs come first.

I would greatly appreciate it if you would contact me regarding this land.

Thank you very much for your prompt attention to this matter.

Sincerely,

*John Lima*

John Lima  
358-6442

RECEIVED

1:33 MAY 13 AM 9 08

May 13 1988  
CITY CLERK  
CITY OF LODI

Lodi City Council  
c/o City Clerk  
P.O. Box 320  
Lodi, CA 95241

Dear Council Members:

In regards to the flooding of City property at White Slough, the ground that is in pasture behind the ponds (approximately 175 acres). For the past three years it has flooded. 1980 and 81 were hard years but the winter of 1982 has been disastrous. Every time there is an above normal amount of rain this parcel of land is under water. Not only is it a total loss as feed goes, but the feeding and health problems of the livestock makes it almost impossible to operate. The weather prediction is that we could be in a wet period that could last for thirty years. At my age, I'm not worried about the thirty, but I am concerned about the next five. If we have another winter like the last, I know I couldn't take it financially and most importantly health wise. It was very hard to sell the cattle that I spent years to build up but I had no choice. It was either sell them for salvage value or buying more hay and watch them suffer in the mud. I decided to sell and the way this spring turned out, it was the right decision. That is now over, but I would appreciate some consideration when I re-negotiate the lease in July for the acreage that was out of production for approximately four months in the years 1980, 81 and 82, through no fault of yours, but the State of California for not maintaining their levees and drainage ditches.

Sincerely,

*Al Bechthold*  
*by Mew*

Al Bechthold  
3784 Benjamin Holt Drive  
Stockton, CA

May 10, 1983

Cost and losses due to flooding December 22, 1982 to March 25, 1983

Cost of extra hay fed to cattle  
2444 bales at \$5.00 per bale \$ 12,220.00

Cost of extra labor, 372.5 hours  
for two men and equipment at \$14.50  
per hour 5,401.25

Sprayed 90 acres of alfa'fa for weed  
control February 19, 1983 and then flooded. 4,196.34

Estimated loss of alfalfa crop for 1983,  
\$500.00 per acre for the 52 acres that  
flooded. 26,000.00

Death of Livestock  
2 cattle pairs (cow & calf) \$600.00 each 1,200.00

20 calves at \$150.00 each 3,000.00

Forced to sell cattle on March 25, 1983 for  
salvage value. 160 cows and 140 calves took  
a loss of approximately \$200.00 per pair. 32,000.00

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TOTAL LOSSES \$ 84,017.59

CC-27 (c) LANDS  
PARKS

1983