

**Formal appeal to reverse declined protest on RFP 12-67 MP: Concessionaire for Woodward Reservoir**

Dear Chairman O'Brien and Board,

We are contacting you in a final effort to pursue a sensible course of action on the marina project at Woodward Reservoir. The central issue here is that Purchasing keeps writing RFP's that are very expensive to execute, and potential revenues from the project do not justify those expenses. There is a reason here so few are bidding. The County needs a millionaire to build it but that same millionaire must be happy to live on \$25,000 net profit annually while working 14 hour days. The County is requesting the impossible. The project must be cheaper. We came up with some neat tricks to make the marina possible.

1. We proposed converting a houseboat into a store. We can move it ourselves, saving \$12,000 in installation and \$12,000 in removal expenses. As a vessel, it is eligible for a Type 20 liquor license through ABC as long as it is in a fixed location on land. We purchased a flat bottomed houseboat eliminating the need for dry-docking equipment and it eliminates the need for a \$2000 building permit and it eliminates \$10,000 worth of retrofits necessary in a traditional modular structure. We bought one for less than than the price of a building permit, already saving more than \$34,000 in startup costs.
2. Sales would be conducted through a walkup window, rather than traditional retail space, eliminating HR expenses for displaying merchandise, eliminating inventory loss due to shoplifting, and allowing the store to be operated by only one person.
3. Over 95% of the potential revenues of the Marina exist between May and September. Our proposed alternate format is the best and only way we might be able to break even in the first five month season. For this to be a viable concern, we need a quick breakeven because there are really only 25 months of potential revenue in the 60 month contract.
4. We are at the end of our rope here. This is a small business. This should be a no-brainer. There is no reason to not do this project. We're offering 5% of gross payable to the county daily and secured by a cash deposit. What is so wrong with an unusual retail format that makes a blank dirt lot producing precisely nothing so much better?

We need your help. Please overturn Purchasing's decision to reject our bid. All we need is a Yes. Attached is a copy of my protest, and its corresponding rejection. It outlines three flaws in the process. These are three chances for you to say yes. We need the Board to say small business is better no business, that \$5,000 (or more) added Parks revenues is better than \$0.00 added revenue, and that something, however unusual, is better than nothing. By granting this appeal, our bid will be reevaluated. We understand that our unorthodox plan raises many questions. We need your intervention to allow those questions to be addressed. There is ample time to do so while finalizing the contract. If you grant this appeal, we could be sitting down with Parks and County Council next week to hash out the details, and we can still open May 1. And then we can start paying for the privledge!

Thank you for your consideration.



2/12/13

Chris Cosner

2013 FEB 12 P 12:30 ✓

BOARD OF SUPERVISORS

**Swan Song**

Alternate Plans:

1. Allocate funds and build whatever structure deemed necessary on the site. Put out an RFP that allows an operator to simply rent and/or run a c-store. This allows the cost of construction to be paid for over terms greater than five years.
2. Allocate funds to build docks for slip rental. Issue an RFP advertising it to the three major resort corporations running marinas of this kind all over the country. They will not be interested without slip rental revenue and/or operating the entire park. As the largest grossing park in the county park system, privatizing the park would likely mean a decrease in revenue, however by providing slips the County may attract the big-hitters, improve the lake and minimize up front expenses. SSJID may oppose permanent floating structures.
3. Re-zone the park, and withdraw ordinances prohibiting commercial activity at the park. Advise parks to add a commercial use entrance fee collectable at the front gate.
4. We feel that reversing Purchasing's decision here is the best course of action.

### **Appeal/Protest for the Reevaluation and Accepting of Bid(s) for RFP 12-67 MP**

Decision: In correspondence dated January 17, 2013 GSA Purchasing stated: "Section 3.9 of the RFP allows the County to 'reject all proposals as it may deem proper in its absolute discretion.' Please accept this as formal notice that Stanislaus County has elected to exercise this option to reject all proposals, and has canceled RFP 12-67 MP." On January 25, We met with the Purchasing Agent Melinda Pallotta, and her Client, Head of Parks Jami Aggers to discuss the actual reasons our bid was declined. These involved the perception that we would be using a floating store. They had concerns that it might block the boat launch ramp, it might not be ADA compliant, as well as issues with permanent docking, SSJID approval and water level fluctuations.

Protest: We are therefore protesting the decisions to reject our bid and cancel the RFP:

1. Our proposal was fundamentally misunderstood by the Parks department; we did not propose to use a floating store. The Head of the Parks Department was only able to evaluate a flawed and misleading summary, not our actual bid. After discussion of several potential solutions, our meeting ended with Ms. Aggers recommending that we be sure to submit this protest on time. It seems Parks agrees that this protest is the best way to proceed. Furthermore the power of "absolute discretion" held by Purchasing is predicated upon a sound evaluation process, which did not occur.
2. GSA, Parks and ourselves, have the mutual goal of opening the Marina before the 2013 summer season and we posit that the Board of Supervisors and the Parks Commission share this goal. Keeping the RFP closed without award will delay the project an entire year or more.
3. Purchasing has made the following claims: (A) No decision has been made and therefore the protest procedure does not apply. Yet rejecting any or all bids and cancelling the RFP both in fact constitute "decisions." (B) The Protest procedure does not apply because the RFP has been cancelled. Yet the very status of the RFP is part of what is being challenged. (C) There is no way for Purchasing to grant a protest should they receive one. Yet the protest procedure is mandated by statute to enable reevaluation of a decision. Therefore the County is empowered to reopen the RFP and issue an intent to award upon review of a cogent protest.

Other Questions: After we explained that the store would not be floating, Parks brought up the several questions about the details of the land-based operation. When this protest is granted, and the intent to award issued, these questions can be answered as we finalize the contract.

The Next Step is to grant this protest and issue an "intent to award." We will then be free to meet or correspond in compliance with all applicable law to answer any further concerns Parks may have. We will finalize a contract, and open for business. Purchasing may deny the protest, in which case it may be appealed to the Board of Supervisors. If the decision is overturned we can again proceed.

Protesting Party: Christopher Cosner 354 West G St. Oakdale, CA 95361 Email: cwcosner@gmail.com  
Cell: (209) 409 - 9935



**GENERAL SERVICES AGENCY**

**Keith D. Boggs**  
Director

1010 10<sup>th</sup> Street, Suite 5400, Modesto, CA 95354

Phone: (209) 525-6319  
Fax: (209) 525-7787

January 30, 2013

Christopher Cosner  
354 W G Street  
Oakdale, CA 95488

via email: [cwcosner@gmail.com](mailto:cwcosner@gmail.com)

RE: RFP 12-67 MP Concessionaire for Woodward Reservoir

Dear Mr. Cosner:

I am in receipt of correspondence from you delivered on January 29, 2013 (Protest) to my office regarding RFP 12-67 MP Concessionaire for Woodward Reservoir (the "RFP").

You have identified your letter as one of protest, making reference to my letter to you dated January 17, 2013. In my prior letter to you, I advised that Stanislaus County has elected to cancel the RFP and reject all proposals, which is permissible under Section 3.4 of the RFP. It was neither a Notice of Intended Award nor a Notice of Non-Award, either of which can be protested. There is no protest procedure available to you at this time.

On a side note, be assured that your proposal was neither misunderstood nor misrepresented. In your Executive Summary (and throughout your proposal) you make reference to a "docked or dry docked barge" and a "floating store." More importantly, the issue of a floating store was only one of many ways in which your proposal was not in keeping with the RFP intent, as was discussed with you when you met with the Parks Department head, Ms. Aggers, and my staff.

Stanislaus County appreciates your interest in serving our County.

Sincerely,

Keith D. Boggs  
Assistant Executive Officer, GSA Director/Purchasing Agent

Enclosure

cc: RFP File  
Jami Aggers