



## HISTORICAL OVERVIEW

For over a century the Arizona State Land Department ("Land Department") has managed State Trust lands. The federal government granted these lands to Arizona at the time of its establishment as a territory in 1863, and conveyed additional lands upon statehood under the Federal Enabling Act of 1910. Arizona created the Land Department as a condition of statehood, and accepted the responsibility of State Trust land management. Today, the State Trust ("Trust") controls approximately 9.2 million acres, which represents 13% of all land in Arizona, and generates revenue for its 13 Trust beneficiaries.

It is the Land Department's responsibility, on behalf of its beneficiaries, to assure the highest and best use of Trust lands. The Enabling Act and the State Constitution mandate that a fair market value be obtained from all State Trust land transactions. Reflected in the unique properties offered for sale or lease throughout the state, the Trust's diversity of lands is historically its most valuable resource.

## COMMERCIAL LEASING

All State Trust Land transactions must be in accordance with the State's mandate, to assure the highest and best use of the land, and to act in the best interest of the Trust. The leasing process is initiated by an application, which is completed by the applicant and filed with the Land Department. A preliminary conference is suggested but not required to submit an application. Submission of an application does not guarantee that the land will be leased; the Trust cannot subsidize any project, no matter how commendable, at the expense of its beneficiaries.

State Trust Lands are leased for a variety of commercial purposes, including retail, industrial, office, and mixed uses. The advantage of a State Trust Land lease is its exemption from State and local property tax; however, the lessee is still responsible for property taxes on any improvements placed on the property. Lessees may be entitled to reimbursement, by a subsequent lessee or purchaser, for improvements placed on State Trust Land. State law provides two types of leases, "short-term" leases of 10 years or less, and "long-term" leases, over 10 years and up to 99 years. The term of a prospective commercial operation is dependent upon its proposed use and the improvements required.

## EVALUATION CRITERIA

The Land Department's review of a lease application will take into consideration the following: viability, income

# ARIZONA STATE LAND DEPARTMENT Commercial Leasing

potential to the Trust, proposed use, financial capability, the extent of the improvements necessary for the proposed use, compatibility with surrounding uses, planning and zoning, access, hydrology, geology, archaeology, environmental implications, parcel size, and conformance with local jurisdictional regulations. All commercial leases of State Trust Land must be approved by the Board of Appeals, which is an independent body of five (5) members, appointed by the Governor.

## LONG TERM LEASES

A lease, in excess of 10 years and up to 99 years, is considered long-term and must be offered at public auction. Per the Enabling Act and upon approval of the Land Commissioner and the Board of Appeals, the legal auction notice shall be advertised once a week, for not less than 10 successive weeks, prior to the public auction. The receipt of an estimated advertising deposit will be required from the applicant, prior to scheduling the subject property for public auction. A verbal auction is held in the county in which the subject parcel is located. Bidding begins at the appraised land value, and is increased by established increments listed in the legal auction notice. The lease is offered to the highest and best bidder.

## COMMERCIAL LEASE PROCEDURES AND FEES

In general, a lease application will require the following:

- 1. Legal Description:** A new application must include the township, range, section, description, acreage and county where the land is located. An ALTA land survey is typically required as part of the application process.
- 2. Additional Expenses:** Dependent on the location of the land and the proposed use, additional costs may be incurred, and are the responsibility of the applicant. These may include, but are not limited to: an ALTA land survey, archaeological survey, geotechnical report, infrastructure analysis, Phase I Environmental Assessment report and appraisal report. For long-term leases, these costs may be reimbursable, upon approval of the Land Commissioner, in the event the applicant is not the successful bidder at auction.
- 3. Development and Improvements:** If development and improvements are considered, a conceptual site plan must be included with the application. The applicant may be required to furnish documented business plans, and provide other detailed information regarding the proposed operation. Approval of the lease application does not constitute approval of improvements. Unless the lease document authorizes construction, an application to place improvements must be submitted, after the lease is issued.

Temporary or removable structures are not considered reimbursable improvements.

**4. Appraised Rent:** All State Trust Land transactions must be in accordance with the State's responsibility to receive an appropriate return for the Trust beneficiaries and take into consideration the risks associated with the proposed use. Rent is typically based upon a percentage of appraised land value, value of improvements, and/or gross receipts. The Land Department will use property appraisals, the applicant's pro forma, and market information, to arrive at a fair market price.

## 5. Selling and Administrative Fee / Broker Commission

**Long-Term Leases Only:** The Land Commissioner has established Selling and Administrative Fees of up to 3% of the consideration paid for all lands long-term leased and reimbursable improvements sold. The fees calculated will not exceed 3% of the cumulative base rents of the lease plus the bonus bid, if any, at public auction. The Land Department is authorized, but under no obligation, to pay commissions to Arizona licensed real estate brokers. The Land Commissioner determines the broker commission, if any, up to a maximum of \$500,000. The broker commission is paid from the Selling and Administrative Fees, of the cumulative base rents of the lease, collected on the day of auction. Broker commissions are not paid on the value of the improvements. Any Selling and Administrative Fees, in excess of the brokerage commission paid, will be retained by the Land Department. A commission will not be paid to a broker until the lease is issued to the successful bidder.

**6. Processing Time:** The complexity and terms of a lease are determining factors in the length of time it takes to process an application. Processing times vary from 6 months for a short-term lease, to upwards of 2 years for the completion of a long-term lease.

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The State Land Department encourages you to contact the Department's Sales and Commercial Leasing Section at (602) 542-3000, prior to submittal of the application, to address questions or concerns regarding the land you wish to lease, prior to the expenditure of the **non-refundable** filing fee.

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1 6 1 6 West Adams • Phoenix, Arizona 85007

602-542-3000

fax: 602-542-4668

www.AzLand.gov

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