

STAFF REPORT

30

A 7

10/24/19
Lease 7001.1
A2074
M. Schroeder

S 6

ENDORSEMENT OF A SUBLEASE

LESSEE/SUBLESSOR:

City of Sacramento (City)

SUBLESSEE:

Sacramento River Tours, LLC, dba Sacramento Jetboat Excursions

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, between the "I" Street Bridge and the Tower Bridge, city of Sacramento, Sacramento County.

AUTHORIZED USE:

LEASE: Use and maintenance of docks, walkways, access ramps, floating vessels, and any other structure necessary or appurtenant to the development of the lease premises and for the mooring of vessels.

SUBLEASE: Hornblower Yachts, Inc.

Use of the "Passenger Boat Dock" for the purpose of mooring and operating tour boats and other passenger vessels, such as the *Capitol Hornblower* and *Empress Hornblower*, with an option to operate a water taxi service. Storage barge and equipment rental.

River City Queen

Use of the "L Street Barge" for the purpose of mooring and operation of a tour boat.

Sac Brew Boat, LLC

Use of the "Visitor Boat Dock" for the purpose of mooring and operation of a tour boat.

TERM:

LEASE: 49 years, beginning July 1, 1986.

SUBLEASE: Hornblower Yachts, Inc.

STAFF REPORT NO. 30 (CONT'D)

10 years, beginning July 15, 2009, with the option to extend the sublease for 1 year, beginning July 15, 2019, with the option to extend the sublease for four additional 1-year terms.

River City Queen

3 years, beginning May 6, 2019, with the option to extend the sublease for two additional 1-year terms.

Sac Brew Boat, LLC

3 years, beginning April 10, 2019, with the option to extend the sublease for two additional 1-year terms.

CONSIDERATION:

LEASE: Commencing with years 6 through 25, the State shall receive 20 percent of the gross annual rent the City receives from a sublessee.

Annual rent for the term of the lease for years 26 through 49 is subject to adjustment as agreed to between the Commission and the City.

SUBLEASE: Hornblower Yachts, Inc.
Annual rent to the City in the amount of \$10,560.

River City Queen

Annual rent to the City in the amount of \$6,528 plus 5 percent of gross receipts, as set forth in the sublease.

Sac Brew Boat, LLC

Annual rent to the City in the amount of \$4,080 plus 5 percent of gross receipts, as set forth in the sublease.

PROPOSED AUTHORIZATION:

The City seeks the Commission's endorsement of the sublease to Sacramento River Tours, LLC, for the use of the "Passenger Boat Dock" for the purpose of mooring and operating a tour boat for 3 years, beginning September 24, 2019, with the option to extend the sublease for two additional 1-year terms. Annual rent to the City of \$10,200 plus 5 percent of gross receipts.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6501.1; California Code of Regulations, title 2, sections 2000 and 2003.

STAFF REPORT NO. 30 (CONT'D)

Public Trust and State's Best Interests Analysis:

On July 24, 1986, the Commission authorized a Master General Lease – Public Agency Use (Lease) to the City for an area covering a portion of the Sacramento River in Old Sacramento between the “I” Street Bridge and the Tower Bridge ([Item 20, July 24, 1986](#)).

On October 22, 2009, the Commission authorized a sublease between the City and Hornblower Yachts, Inc., for use of the Passenger Boat dock for mooring and operating tour boats and other passenger vessels ([Item C32, October 22, 2009](#)). On December 17, 2009, the Commission authorized an amendment of the sublease to add a storage barge and equipment rental provision ([Item C19, December 17, 2009](#)).

On January 24, 2019, the City solicited a Request for Proposal to award subleases. The Request for Proposal closed on February 20, 2019, resulting in three operators (River City Queen, Sac Brew Boat, LLC, and Sacramento River Tours, LLC) being selected by the City.

On August 23, 2019, the Commission authorized a second amendment of the sublease to extend the sublease for 1 year with the option to extend the sublease for four additional 1-year terms and revise the annual rent (moorage fee) to the City to \$10,560; a sublease between the City and the River City Queen; and a sublease between the City and Sac Brew Boat, LLC ([Item 24, August 23, 2019](#)). The purpose of the sublease with River City Queen is for the use of the L Street Barge for mooring and operating a tour boat. The purpose of the sublease with Sac Brew Boat, LLC, is for the use of the Visitors Boat Dock for mooring and operating a tour boat.

On September 24, 2019, the City approved a 3-year agreement with the option to extend for two additional 1-year terms with Sacramento River Tours, LLC, to use the Passenger Boat Dock for the purpose of mooring and operating a tour boat. The Lessee is requesting that the Commission authorize the sublease.

The lease premises are used for the maintenance of docks, moorings, appurtenant structures, and facilities adjacent to Historic Old Sacramento providing recreational boating and visitor-serving retail and restaurant uses. The recreational boating, visitor-serving retail, restaurants, and cafés that have been developed on the lease premises and adjacent City-owned land include Rio City Café, Joe's Crab Shack, and the Delta King floating restaurant. Preservation of historic waterfront facilities and water-dependent recreational boating and visitor-serving amenities are generally consistent with the common law Public Trust Doctrine. Sacramento River

STAFF REPORT NO. 30 (CONT'D)

Tours, LLC, dba Sacramento Jetboat Excursions is a privately-owned business that would offer guided 30-minute and 1-hour tours of the Sacramento River. The tours have an opportunity to create local history and river education experiences for visitors. In addition, the tours are operated with boats that have noise mitigation for quieter operation, boats designed to create less wake impact, boats equipped to assist in rescues, and boats that are safer for marine life as the boats do not use propellers for propulsion. The tours would be amongst the other tour operators from the docks providing the visiting public options in recreating on the water. There is a fee for the tours, but the recreating public would have opportunities to observe the tours free of charge from the shoreline or on the water. With the boats quieter operation, less wake creation, and less impact to marine life the public would still be able to fish from the shoreline or on the water. Lastly, the boats are able to assist in rescues for the recreating public. The subject structures where the tours will originate from are owned and maintained by the City.

The sublease includes certain provisions protecting the public use of the proposed lease area, including limited lease terms, and non-exclusive use provisions. The primary Lease, itself, contains provisions that require the City to remove their improvements and restore the lease premises at the end of the lease term. Additionally, the Lease requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For these reasons, staff believes the proposed endorsement of the sublease does not substantially interfere with the Public Trust needs at this location, at this time, and for the foreseeable term of the proposed sublease; is consistent with the Public Trust Doctrine; and is in the state's best interests.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the endorsement of a sublease is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the request, the sublessee, Sacramento River Tours, LLC, dba Sacramento Jetboat Excursions, will not be allowed to moor and operate its tour boat from the City's Passenger Boat Dock. Upon expiration or prior termination of the sublease, the sublessee also has no right to a new sublease or to renewal of any previous sublease.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and

STAFF REPORT NO. **30** (CONT'D)

resources under the Commission's jurisdiction; Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways; and Strategy 2.2 of the Commission's Strategic Plan to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.

3. The endorsement of a sublease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

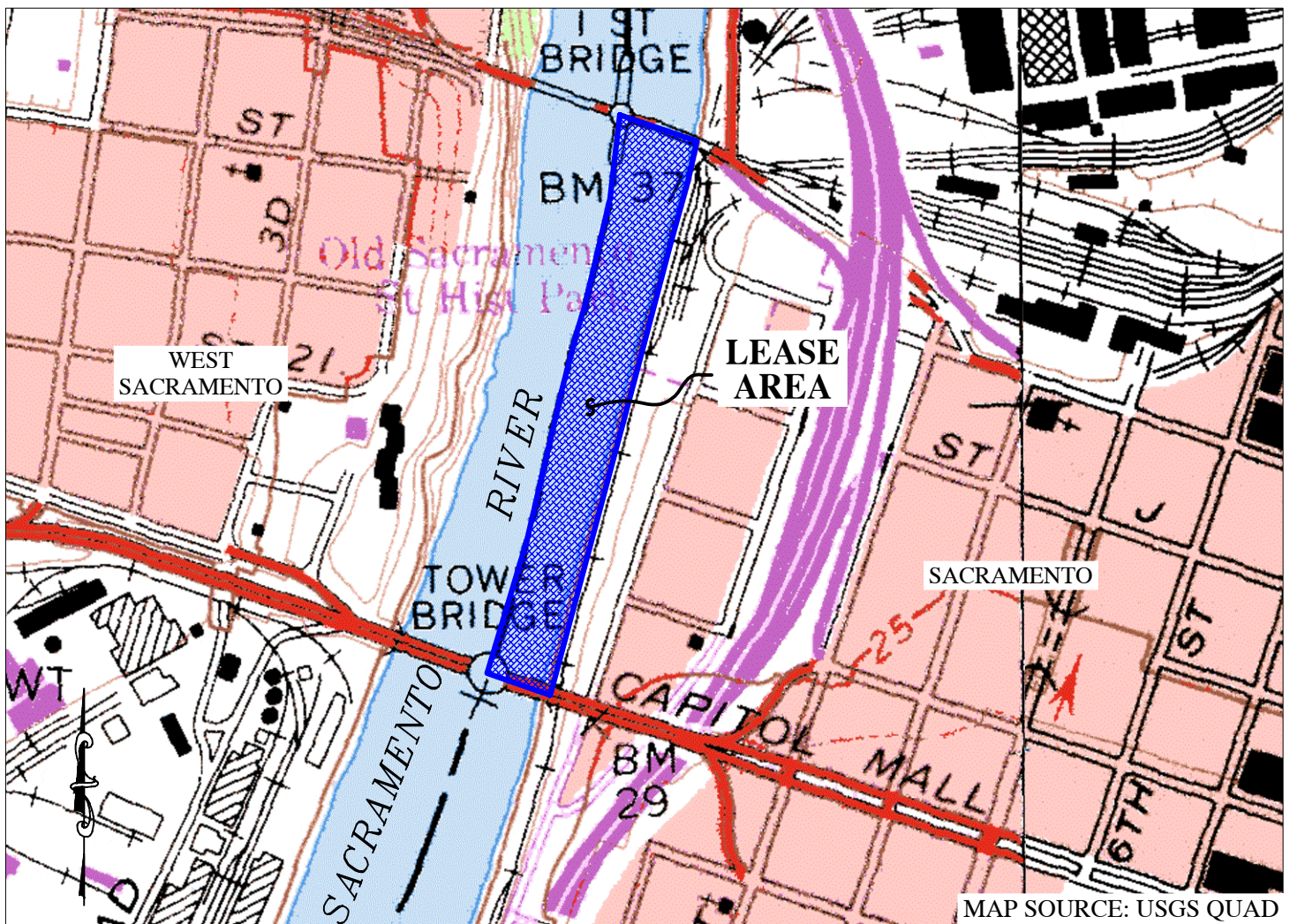
Find that the proposed endorsement of a sublease will not substantially interfere with the Public Trust needs and values at this location; that this action is consistent with the common law Public Trust Doctrine; and that it is in the best interests of the State.

AUTHORIZATION:

Authorize, by endorsement, a sublease between the City and Sacramento River Tours, LLC, dba Sacramento Jetboat Excursions for use of the "Passenger Boat Dock" for the purpose of mooring and operation of a tour boat for 3 years, beginning September 24, 2019, with the option to extend the sublease for two additional 1-year terms and annual rent due to the City in the amount of \$10,200 plus 5 percent of gross receipts.

NO SCALE

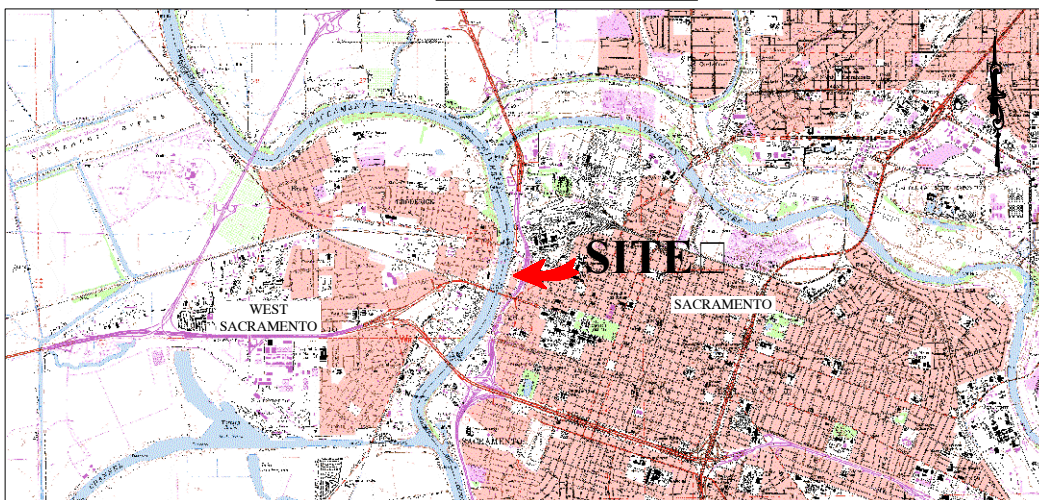
SITE



SACRAMENTO RIVER BETWEEN I STREET BRIDGE AND TOWER BRIDGE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 7001.1
CITY OF SACRAMENTO
MASTER LEASE
SACRAMENTO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the 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.