CALENDAR ITEM
C32

A 9 — 10/22/09
PRC 7001.1
S 6 — D. Jones

APPROVAL OF SUBLEASE

LESSEE:
City of Sacramento
922 Second Street, Suite 300
Sacramento, CA 95814

SUBLESSEE:
Hornblower Yachts, Inc.,
dba Hornblower Cruises and Events
Pier 3, The Embarcadero
San Francisco, CA 94111

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:
Continued 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:
Exclusive 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.

LEASE TERM:
LEASE:
49 years, beginning July 1, 1986.

SUBLEASE:

Ten years, beginning July 15, 2009, with the option to extend the sublease for two five-year terms.

CONSIDERATION:

LEASE: Commencing with years six through 25, the State shall receive 20% of the gross annual rent the City receives from its sublessees.

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:

Annual rent will be as follows: $24,000 for years one through five; $27,000 for years six through ten; $30,000 for the first extended five year period; and $36,000 for the second extended five year period plus five percent of gross receipts or percentage rent, without deductions, as set forth in the sublease.

OTHER PERTINENT INFORMATION:

1. On July 24, 1986, the Commission approved the issuance of a Master Lease to the city of Sacramento (City) covering a portion of the Sacramento River in "Old Sacramento" between the Tower Bridge and the I Street Bridge. Since the Lease was issued, it has been amended periodically to amend the date when annual reports and rent are due and to amend the lease expiration date to June 30, 2035.

2. The Old Sacramento riverboat program has been an important part of the visitor experience and proven to be a significant draw for the Sacramento waterfront. In 1987, after a competitive selection process, Channel Star Excursions was chosen by the City as the provider who operated two boats, the Spirit of Sacramento and the Matthew McKinley. The Commission approved this sublease in April 28, 1993. That sublease terminated in June 2007 and in November 2006, the City entered into two agreements with Sacramento Yacht Charters (SYC) to provide historic tour boat, water taxi, and amphibious trolley services from the Old Sacramento "Passenger Boat Dock". The Commission approved this sublease on May 10, 2007. SYC subsequently defaulted on its agreements with the City and filed bankruptcy. In April 2009, after one and one half years of operating in default, the SYC agreements were "deemed rejected" by the City as a matter of law under the Bankruptcy Code. This resulted in the automatic termination of these agreements

which permitted the City to select another provider for boat services in Old Sacramento.

3. On May 19, 2009, the City approved a short-term agreement with Hornblower Yacht, Inc., dba Hornblower Cruises and Events, (Hornblower) to operate the tour boats until October 2009. Because of the financial investment and investment in the community, Hornblower wanted a longer term agreement. On July 14, 2009, the City approved a ten-year agreement with Hornblower to use 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. The City submitted the lease between the City and Hornblower to Commission staff. Based on Commission staff's review of that agreement, staff has determined it is consistent with the terms of the Master Lease.

4. 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.

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

5. 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.

EXHIBIT:

A. Site and Location Map

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:

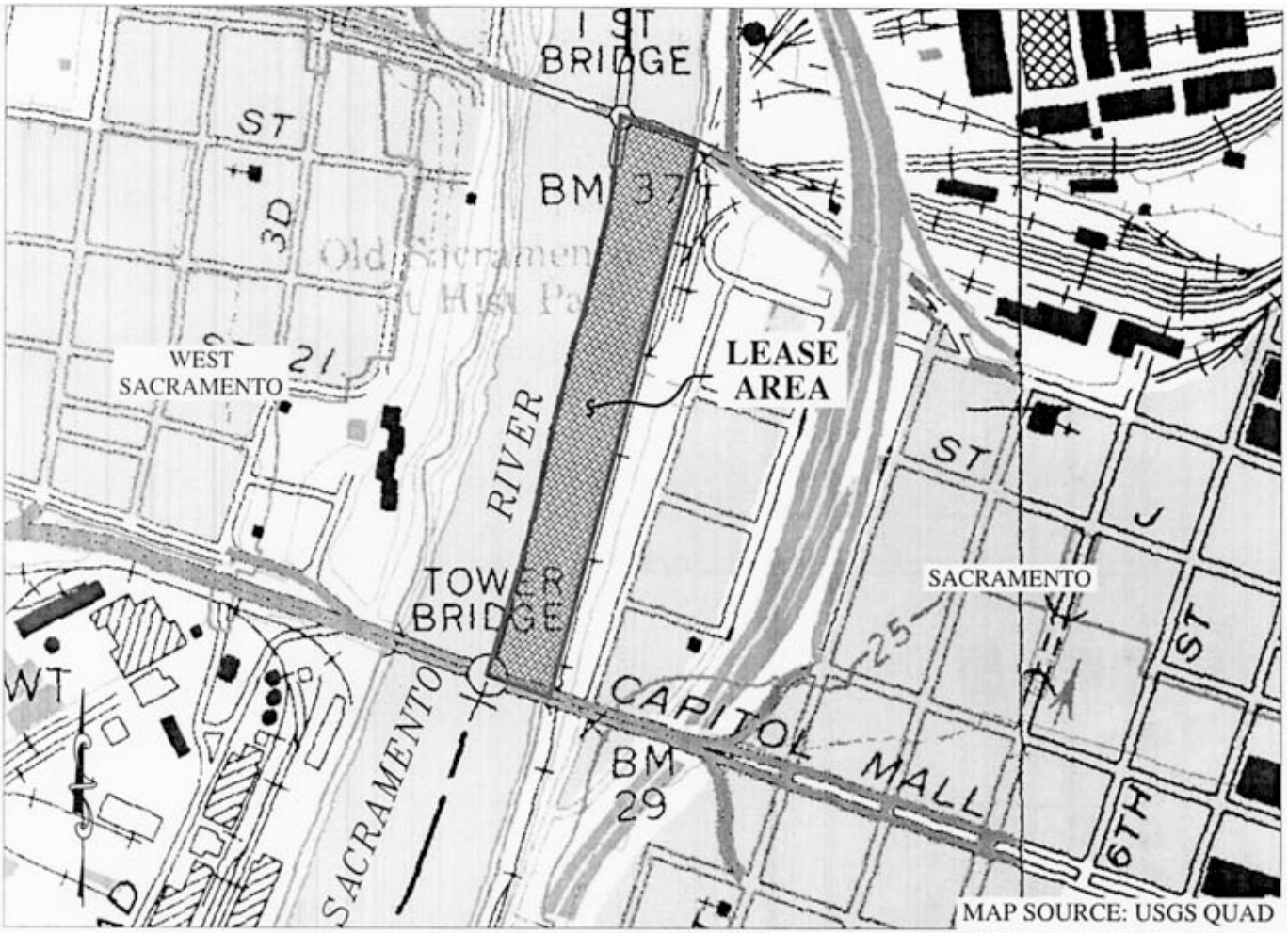
FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE A SUBLEASE BETWEEN THE CITY OF SACRAMENTO AND HORNBLOWER YACHT, INC., DBA HORNBLOWER CRUISES AND EVENTS, TO USE THE PASSENGER BOAT DOCK, A PORTION OF MASTER LEASE NO. PRC 7001.1, FOR THE PURPOSE OF MOORING AND OPERATING TOUR BOATS AND A WATER TAXI SERVICE, MORE PARTICUARLY SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, BEGINNING JULY 15, 2009; FOR A TERM OF TEN YEARS WITH THE OPTION TO EXTEND THE TERM OF THE SUBLEASE FOR TWO FIVE YEAR TERMS.

NO SCALE

SITE

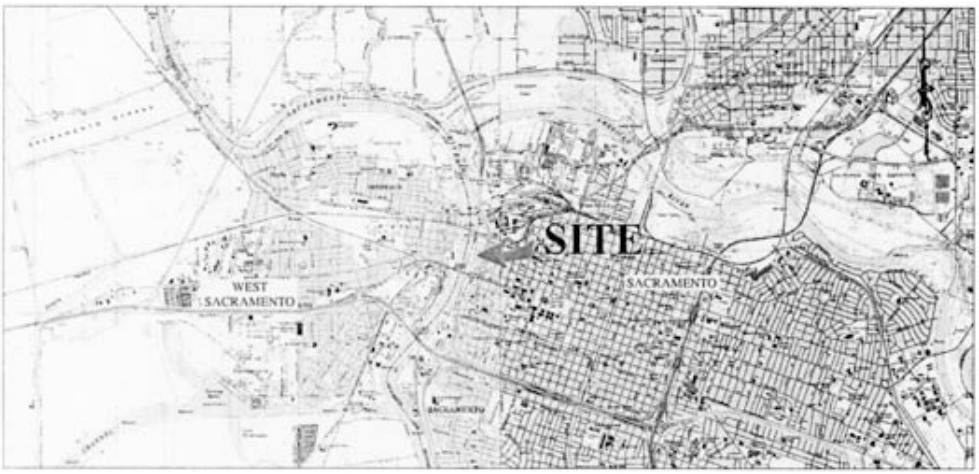


MAP SOURCE: USGS QUAD

SACRAMENTO RIVER BETWEEN I STREET BRIDGE AND TOWER BRIDGE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit A

PRC 7001.1
CITY OF SACRAMENTO
MASTER LEASE
SACRAMENTO COUNTY

JWP 09/09