

**STAFF REPORT
C23**

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12/03/18
PRC 5512.1
M. Schroeder

**AUTHORIZE AN AGREEMENT AND CONSENT TO ENCUMBRANCING OF A
GENERAL LEASE – COMMERCIAL USE**

LESSEE/APPLICANT:

Sacramento Yacht Club

SECURED-PARTY LENDER:

First Northern Bank of Dixon

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 3365 South River Road, near West Sacramento, Yolo County.

AUTHORIZED USE:

Continued use, maintenance, and operation of an existing private yacht club, known as Sacramento Yacht Club, consisting of 85 individual slips, 1,000 feet of side-tie dockage, 400 feet of guest dockage, a debris diverter, two gangways, two sewage pump-out stations, maintenance dredging of up to 5,000 cubic yards annually, and six security vessels.

LEASE TERM:

25 years, beginning September 23, 2017.

CONSIDERATION:

\$21,637 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent on each 10th anniversary of the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$2,000,000 per occurrence.
- \$20,000 Bond.
- The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encouraging implementation of the Commission's "Best Management Practices for Berth Holders and Boaters," including additional Best

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Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1 and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On April 19, 2018, the Commission authorized a 25-year General Lease – Commercial Use to Sacramento Yacht Club for the operation of a private yacht club marina consisting of 85 individual slips, 1,000 feet of side-tie dockage, 400 feet of guest dockage, a debris diverter, two gangways, two sewage pump-out stations, maintenance dredging of up to 5,000 cubic yards annually, and six security vessels ([Item C28, April 19, 2018](#)). This lease will expire on September 22, 2042. On August 13, 2018, the Lessee submitted an application for an agreement and consent to encumbrancing of the lease.

The Lessee obtained refinancing from First Northern Bank of Dixon, the Secured-Party Lender, with a loan amount of approximately \$515,624,~~000~~. Under the terms of the new loan, the Secured-Party Lender is requiring the Lessee to pledge their interest in Lease No. PRC 5512.1 as additional security. The new loan will refinance the existing debt on the property.

The encumbrancing of the lease would be implemented through the document, "Agreement and Consent to Encumbrancing of Lease," that includes protections for the State land associated with the lease. These protections include the following requirements:

1. No subsequent encumbrancing of the lease shall be allowed without prior written consent of the Commission.
2. Any transfer of the lease to a third party shall be subject to prior written approval and consent of the Commission.
3. If the Secured Party-Lender forecloses on the lease, it shall be bound by all terms and conditions of the lease.
4. The duration of the encumbrancing agreement is limited to the term of the lease.

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The lease will expire on September 22, 2042. In approving the encumbrancing agreement, the Commission, through a delegation to the Executive Officer, retains the right to approve any transfer of the lease from the lending institution to a prospective lessee, should any foreclosure of the loan occur. The proposed Agreement and Consent to Encumbrancing of Lease provides that the Commission's Executive Officer make certain approvals as provided in the Agreement, including the approval of purchasers during a foreclosure sale.

The subject yacht club facilities accommodate, promote, and foster recreational boating and provide access to the adjacent State waterways. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The adjacent upland is privately owned and developed as a private yacht club.

The existing lease includes certain provisions and Best Management Practices protecting the public use of the lease area, including a limited lease term of 25 years. The facilities have existed for many years at this location; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

The existing lease requires that the lessee insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

The proposed encumbrancing of the lease will allow the Lessee to refinance debt incurred from prior marina upgrades, repairs, and renovations that improved the existing facilities serving the Public Trust needs and values at this location. For all the reasons above, staff believes entering into this Agreement and Consent to Encumbrancing is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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 resources under the Commission's jurisdiction.

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2. Approval of encumbrancing of the lease 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).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed encumbrancing of the lease will allow the Lessee to refinance debt incurred from prior marina upgrades, repairs, and renovations that improved the existing facilities serving the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the Executive Officer or her designee to execute the document entitled "Agreement and Consent to Encumbrancing of Lease," allowing Lessee's right, title, and interest in Lease No. PRC 5512.1 to be pledged as partial security for a loan in the principal amount not to exceed \$515,624 in favor of the Secured Party Lender in substantially the same form as that on file in the Sacramento office of the Commission, effective December 3, 2018, and to execute, acknowledge, accept, and record all related documents as may be reasonably necessary to complete the transaction.
2. Authorize the Executive Office or designee to give approval on behalf of the Commission of prospective purchasers during a foreclosure sale and make any other approvals required of the Commission under the Agreement.

EXHIBIT A

PRC 5512.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to "PARCEL A" and "PARCEL B" of that certain map filed November 16, 1978 in Book 11 of Maps & Surveys at Pages 68 and 69, Yolo County Records, State of California and more particularly described as follows:

BEGINNING at the southwesterly terminus of that certain course "N 47°17'26" E 70.63 feet" on the southeasterly boundary line of "PARCEL A" as shown on said map thence from said point of beginning along said southeasterly boundary line the following three (3) courses:

1. South 47° 49' 55" West 400.71 feet;
2. South 53° 22' 10" West 335.20 feet;
3. South 63° 33' 18" West 122.78 feet to intersection with the southeasterly boundary line of "PARCEL B" of said map; thence along said boundary line the following six (6) courses:

1. South 28° 04' 39" West 90.20 feet;
2. South 40° 55' 42" West 149.05 feet;
3. South 50° 54' 53" West 53.15 feet;
4. South 56° 36' 41" West 102.78 feet;
5. South 62° 58' 14" West 101.36 feet;
6. North 64° 52' 24" West 72.32 feet, thence leaving said boundary line the following six (6) courses:

1. South 05° 24' 31" East 266.00 feet;
2. North 74° 00' 35" East 153.00 feet;
3. North 53° 18' 43" East 441.00 feet;
4. North 37° 44' 59" East 199.00 feet;
5. North 50° 13' 19" East 717.00 feet;
6. North 31° 15' 33" East 192.31 feet to the POINT OF BEGINNING.

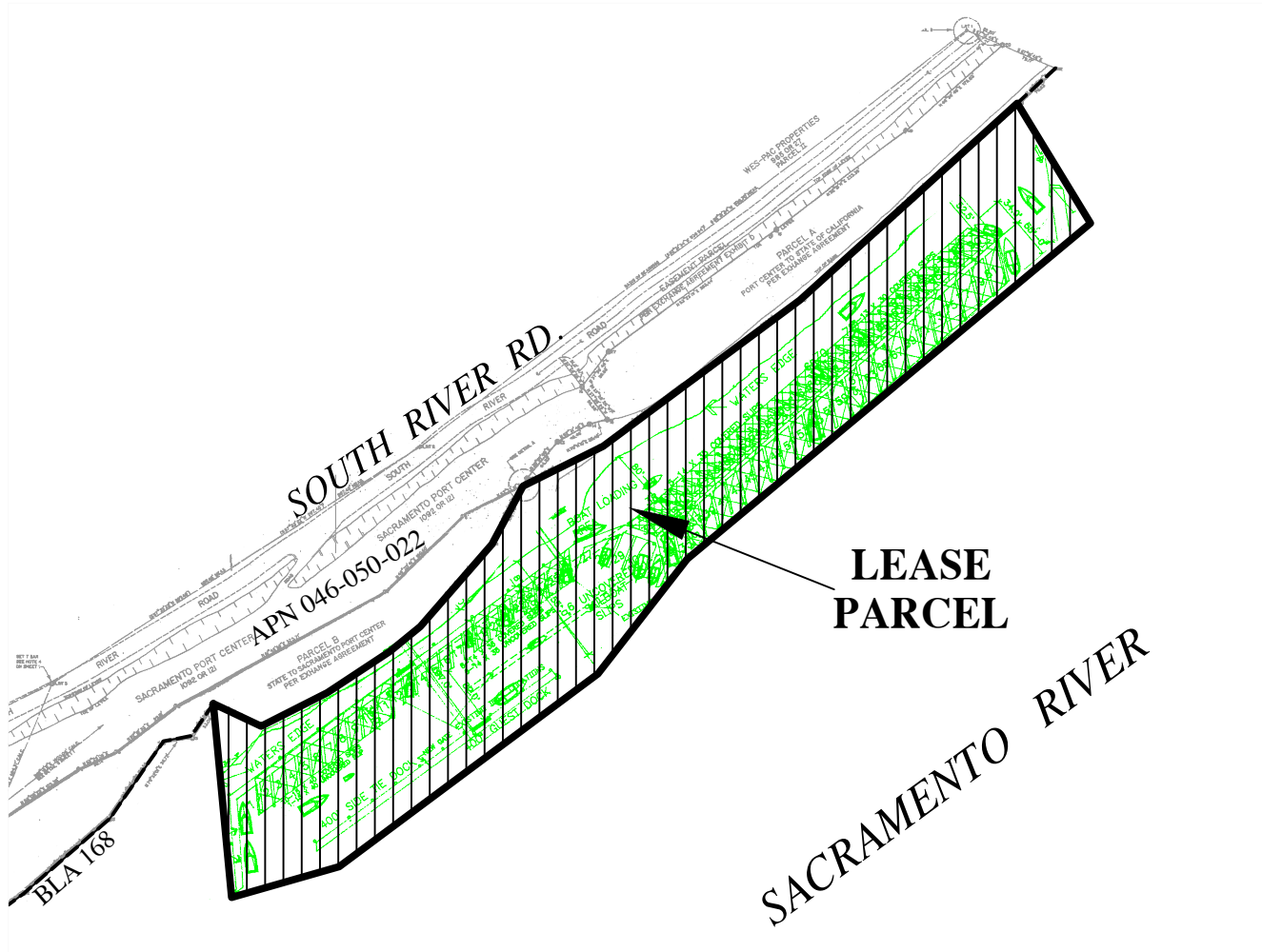
END OF DESCRIPTION

Prepared 01/05/16 by the California
State Lands Commission Boundary Unit



NO SCALE

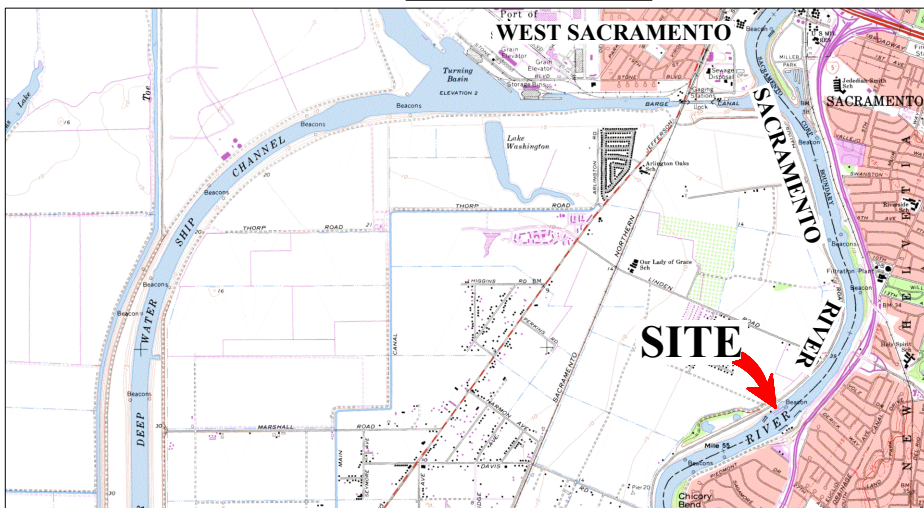
SITE



3365 SOUTH RIVER RD., WEST SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5512.1
 SACRAMENTO YACHT CLUB
 APN 046-050-022
 GENERAL LEASE-
 COMMERCIAL USE
 YOLO 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.