

**STAFF REPORT
C28**

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04/19/18
PRC 5512.1
M. Schroeder

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

Sacramento Yacht Club

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 3365 South River Road, city of 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:

1. Liability insurance in an amount no less than \$2,000,000 per occurrence.
2. \$20,000 Bond.
3. 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 Management Practices (BMPs)

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the Commission subsequently deems appropriate for either of the above categories.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

On September 23, 1992, the Commission authorized a 25-year General Lease – Recreational Use to the Sacramento Yacht Club, for the proposed reconstruction and expansion of a private yacht club known as the Sacramento Yacht Club ([Item 78, September 23, 1992](#)). On August 17, 2004, the Commission authorized an amendment of the lease to include annual maintenance dredging within the existing lease premises ([Item C14, August 17, 2004](#)). On March 25, 2008, the Commission authorized a revision of rent to revise the annual rent from \$12,645 per year to \$18,000 per year ([Item C20, March 25, 2008](#)). On August 15, 2014, the Commission authorized a revision of rent from \$18,000 per year to \$19,582 per year ([Item C16, August 15, 2014](#)). The lease expired on September 22, 2017. The Applicant is applying for a new lease.

The Applicant owns the upland adjoining the lease premises. 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 California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5). The adjacent upland is privately owned and developed as a private yacht club.

As part of the reconstruction and expansion in 1992, the Applicant agreed to preserve the riparian habitat located downstream and on an upland parcel owned by the Applicant in exchange for locating the yacht club upstream, in front of and waterward of the Commission-owned upland parcel. This was a condition of the lease issued on September 23, 1992, which was for the term of the lease and confirmed through a Grant Deed of Conservation Easement to the Commission. In 1992, the Commission certified an Environmental Impact Report (EIR No. 596, State Clearinghouse No. 92062015) and determined the parcel downstream owned by the Applicant consisted of a mature riparian forested habitat with higher diversity of species and greater density of mature trees whereas the upland located upstream and owned by the Commission was

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much more disturbed, consisting of non-native vegetation and sparse young, native riparian trees. In June 2016, staff conducted a riparian habitat assessment to compare the habitat conditions of the upstream Commission-owned parcel and the downstream parcel owned by the Applicant. The assessment concluded the upstream parcel is denser with mature, native riparian species than the downstream parcel also known as the Conservation Easement parcel. The habitat of the Conservation Easement parcel has not changed much from 1992. In comparison, the riparian habitat conditions of the Commission-owned parcel have become higher in quality. Therefore, a Grant Deed of Conservation Easement is no longer required.

The Sacramento Yacht Club is a large yacht club covering nearly 6 acres. The yacht club is vulnerable to theft and property destruction and has experienced vandalism and other on-the-water problems, requiring immediate action for the overall safety and security of the facility. These factors support a limited and controlled presence of one or more navigable vessels to be occupied on a 24-hour basis for security purposes. Taking into account the size and design of the facility, staff recommends that no more than six navigable vessels be used for security purposes. These vessels will be located in strategically designated slips subject to the approval of Commission staff. The security vessels will be required to leave the facility waters at least once every 90 days for a minimum of 6 hours, and the Applicant is required to maintain an annual log to be made available to Commission staff upon request.

A maximum of 5,000 cubic yards of material may be dredged annually, as identified in the proposed lease. The dredging is contingent upon the Applicant complying with applicable permits, recommendations, or limitations issued by federal, State, and local governments, and restricts the Applicant from using the dredged material for commercial purposes. Dredged material will be deposited at U.S. Army Corps of Engineers-approved disposal sites or at approved beneficial upland use sites. Maintenance dredging last occurred in 2016, and future maintenance dredging is anticipated to be needed annually. The maintenance dredging is consistent with the common law Public Trust Doctrine because it is intended to facilitate water-dependent commerce and navigation. The dredging will maintain a navigable depth for recreational boating in the Sacramento River.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 25 years, and a non-exclusive use provision. The Sacramento Yacht Club facilities have

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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 proposed lease requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change Analysis:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located along the Sacramento River, at a minimally tidally influenced site that is vulnerable to flooding at current sea levels; therefore, this area would be at risk of flood exposure given future projection scenarios of sea-level rise. The lease area includes: 85 individual slips (76 covered and nine uncovered), 1,000 feet of side-tie dockage, 400 feet of guest dockage, a debris diverter totaling 120 feet, two gangways, two sewage pump-out stations, and annual maintenance dredging of approximately 5,000 cubic yards of material in the Sacramento River. By 2030, the region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the Sacramento River's inundation levels within the lease area. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for the region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped

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at higher altitudes in snowpack. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and floating structure integrity.

The potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause structures to be damaged or cause greater damage as a result of higher flows. Conversely, prolonged drought conditions could lower water levels exposing previously submerged structures to the elements potentially leading to increased wear and tear on surrounding support structures and thereby increasing hazards and impact the function and utility of the lease area structures.

The bank is not currently protected; the city of West Sacramento is planning to construct a set-back levee approximately 200 feet landward and west of the current levee. The new levee will be constructed to U.S. Army Corps of Engineers 200-year flood-event criteria. The existing levee will remain but will not be part of the federal and state adopted plans of flood control. Since the current right bank of the Sacramento River levee is heavily vegetated, Commission staff recommends the lessee continue to encourage riparian vegetation to persist along the bank adjacent to the river. Riparian vegetation provides stability and reduces the amount of erosion and scour pressure that structures surrounding the Project may experience during future flood events but remains at risk of accelerated deterioration from increased seasonal currents and floods.

The combination of these projected conditions could potentially raise the likelihood to damage proposed structures within the lease area during the term of the lease. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or other unforeseen damage. The lease includes an acknowledgment that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine; will not substantially interfere with Public Trust needs at this location, at this time,

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and for the foreseeable term of the proposed lease; 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.
2. **Existing Facilities:** Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).
3. **Maintenance Dredging:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(4). Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Facilities: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Maintenance Dredging: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(4).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Commercial Use to the Sacramento Yacht Club beginning September 23, 2017, for a term of 25 years, for the continued use, maintenance, and operation of an existing private yacht club known as the 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, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$21,637, 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; liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond in the amount of \$20,000.

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.

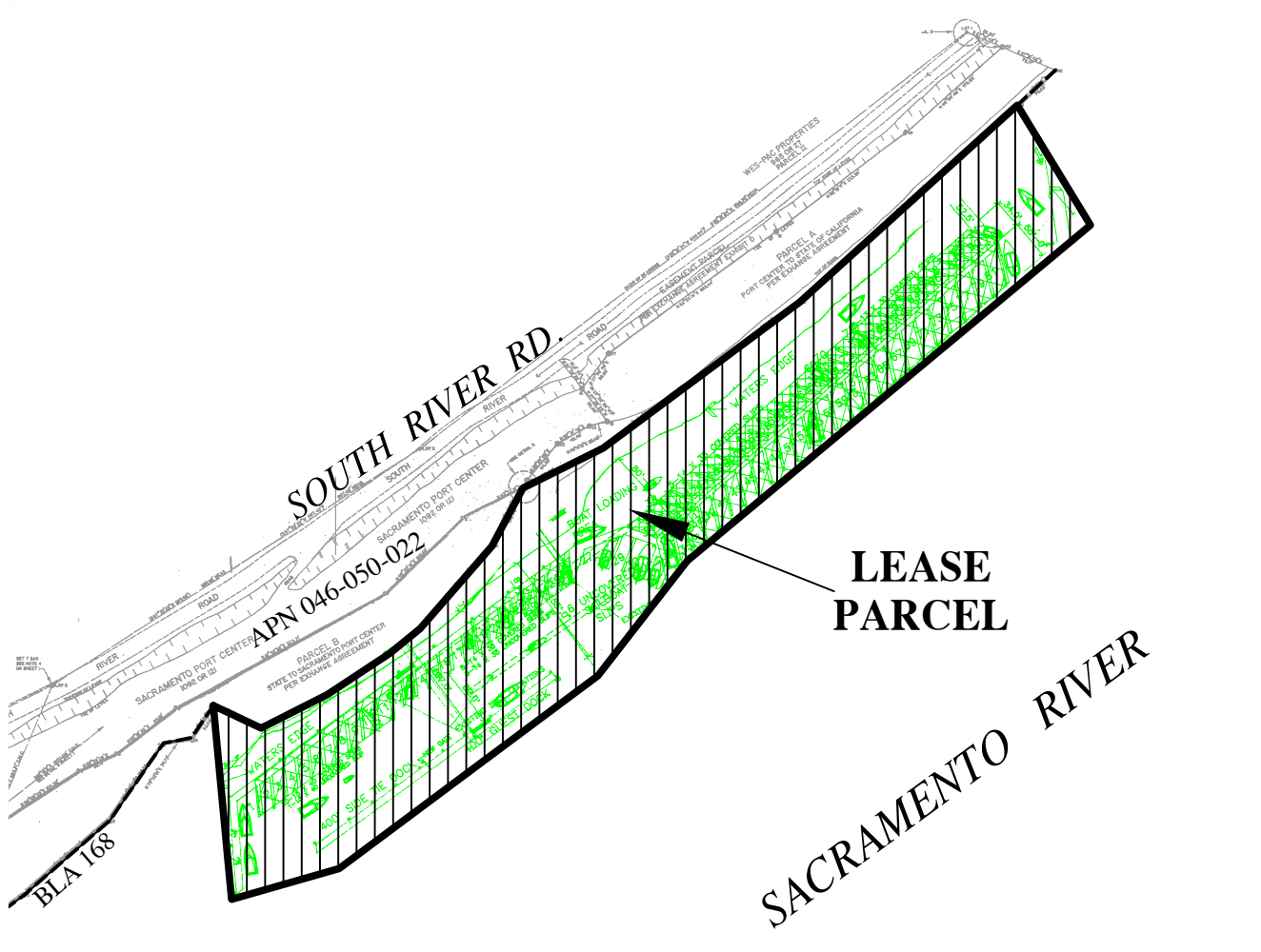
END OF DESCRIPTION

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



NO SCALE

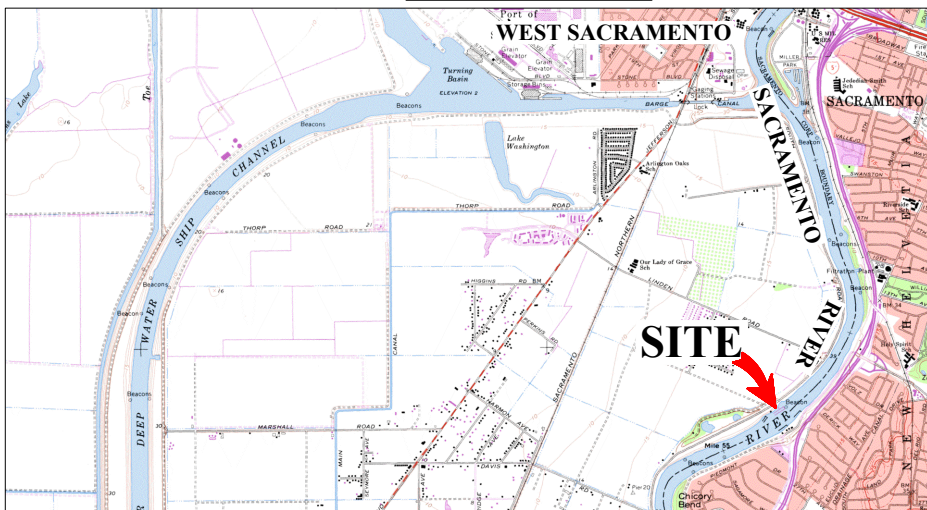
SITE



3365 SOUTH RIVER RD., WEST SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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 B

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



TS 01/05/2016