

**CALENDAR ITEM
C19**

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12/17/09
PRC 7001.1
D. Jones

AMENDMENT OF SUBLEASE

LESSEE/SUBLESSOR:

City of Sacramento
922 Second Street, Suite 200
Sacramento, CA 95814

SUBLESEE:

Hornblower Yachts, Inc., dba
Hornblower Cruises and Events, Inc.
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:

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.

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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 to the city is 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.

PROPOSED AMENDMENT TO SUBLEASE:

The Sublease will be amended to include a Storage Barge and Equipment Rental provision, which includes a monthly rental payment to the City in the amount of \$250. All other terms and conditions of the sublease shall remain in effect without amendment.

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 and as depicted on the attached Exhibit A. Since the Lease was issued, it has been amended periodically to adjust the date when annual reports and rent are due and to amend the lease expiration date to June 30, 2035.
2. On October 22, 2009, the Commission approved a Sublease between the City and Hornblower Yachts, Inc., dba Hornblower Cruises and Events. The purpose of the Sublease is for the exclusive use of the "Passenger Boat Dock" for the mooring and operating of tour boats and other passenger vessels, such as the Capitol Hornblower and Empress Hornblower, with an option to operate a water taxi services.
3. The first amendment to the Sublease, which authorizes the renting of an existing storage barge, ice machine, and a walk-in refrigerator and freezer unit to Hornblower, has been approved on behalf of the City. While the amendment to the Sublease did not require City Council approval, consideration by the Commission is required. As such, the City submitted the sublease amendment to Commission staff and staff has determined

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the amendment is consistent with the terms of the Sublease and 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 AN AMENDMENT TO THE SUBLEASE BETWEEN THE CITY OF SACRAMENTO AND HORNBLLOWER YACHT, INC., DBA HORNBLLOWER CRUISES AND EVENTS, A PORTION OF MASTER LEASE NO. PRC 7001.1 TO INCLUDE A STORAGE BARGE AND

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EQUIPMENT RENTAL PROVISION, WHICH INCLUDES A MONTHLY RENTAL PAYMENT TO THE CITY IN THE AMOUNT OF \$250. THE AMENDMENT TO THE SUBLEASE SHALL BE EFFECTIVE OCTOBER 20, 2009. ALL OTHER TERMS AND CONDITIONS OF THE SUBLEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.