

**CALENDAR ITEM
C36**

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06/22/17
PRC 5065.1
J. Holt

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Robert L. Vellanoweth and Kelly A. Vellanoweth

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 674 Riverlake Way, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock, covered boathouse, sundeck with safety railing, boat lift, four pilings, 2-pile dolphin, and ramp.

LEASE TERM:

10 years, beginning June 28, 2017.

CONSIDERATION:

\$599 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee agrees that should Lessor or City of Sacramento obtain necessary rights or permission from other property owners along the Sacramento River authorizing public access along the river bank or levee between the east and west ends of Riverlake Way, Sacramento, California, that Lessee will also allow reasonable public access across the bank or levee on Lessee's property.
3. Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.
4. Restrictions on the expansion or rebuild of the sundeck if substantially destroyed.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On June 28, 2007, the Commission authorized a General Lease – Recreational Use to Robert L. Vellanoweth and Kelly A. Vellanoweth. ([Calendar Item C62, June 28, 2007](#)). That lease will expire on June 27, 2017. The Applicant is now applying for a new lease, requesting the continued use and maintenance of existing facilities.

The proposed lease contains the same facilities as the current lease, which consist of a floating boat dock, covered boathouse, sundeck with safety railing, and appurtenant facilities. With exception of the sundeck, these facilities are used for boating. Recreational boating is a water-dependent activity and 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 lands (Pub. Resources Code, § 6503.5).

The sundeck with safety railing is not associated with traditional Public Trust uses. However, this sundeck was expressly authorized by the Commission in 2007 and in this instance, does not significantly interfere with Public Trust activities. The sundeck is located on top of the boathouse. It does not interfere with the public right of navigation or access beyond the footprint of the existing boathouse. The lease contains special provisions, stating that the sundeck may not be expanded or rebuilt if substantially destroyed.

The subject facilities do not significantly alter the land; the lease does not alienate the State's fee simple interest, and neither permanently impairs 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 lease also requires the lessee to provide reasonable public access across the bank or levee on the lessee's property, should the lessor or City of Sacramento obtain the necessary rights or permission from other property owners along the Sacramento River, authorizing public access along the river bank or levee between the east and west ends of Riverlake Way, Sacramento, California.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and

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a non-exclusive use provision. It requires the lessee to 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.

Climate Change:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The lease area is located along the Sacramento River within a region identified as tidally influenced and vulnerable to flooding at current sea levels. The facilities associated with this lease area include: an existing floating boat dock, covered boathouse, sundeck with safety railing, boat lift, four pilings, 2-pile dolphin, and ramp. In the foreseeable future, this area will be at a higher risk of flood exposure given future projection scenarios of sea-level rise.

Based on projections, this region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). The effects could increase the Sacramento River's inundation levels within the lease area. 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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for this 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 projection 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. 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 structure.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and

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stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels exposing previously submerged structures to the elements potentially leading to increased wear-and-tear on the pilings, floating dock and boathouse, reduce navigability of the channel, thereby increasing hazards, and impacting the function and utility of the lease area structures.

The existing floating boat dock, covered boathouse, sundeck, and ramp are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, and increasing their resiliency to some climate change impacts; but, may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of dock and boathouse facilities. The fixed features may need reinforcement to withstand higher levels of flood exposure. The bank is somewhat stabilized by vegetation, reducing the amount of erosion and scour pressure it may experience during future events; but, remains at risk of accelerated deterioration from currents and floods. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease will not substantially interfere with Public Trust needs, at this location at this time, or for the foreseeable term of the proposed lease, is consistent with the common law Public Trust Doctrine and 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; and is consistent with Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. 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,

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Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; but, such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that this 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time or 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.

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 section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Applicant beginning June 28, 2017, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock, covered boathouse, sundeck with safety railing, boat lift, four pilings, 2-pile dolphin, and ramp,

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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 \$599, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5065.1

LAND DESCRIPTION

A parcel of tide and submerged land in the Sacramento River, adjacent to Swamp And Overflow Survey 160 patented April 1, 1876 situated in Sacramento County, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, sundeck with safety railing, boathouse with boat lift, four (4) pilings, a 2-piling dolphin and ramp adjacent to those parcels described in that Grant Deed, recorded November 23, 2004 in Book 20041123 Page 2758 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

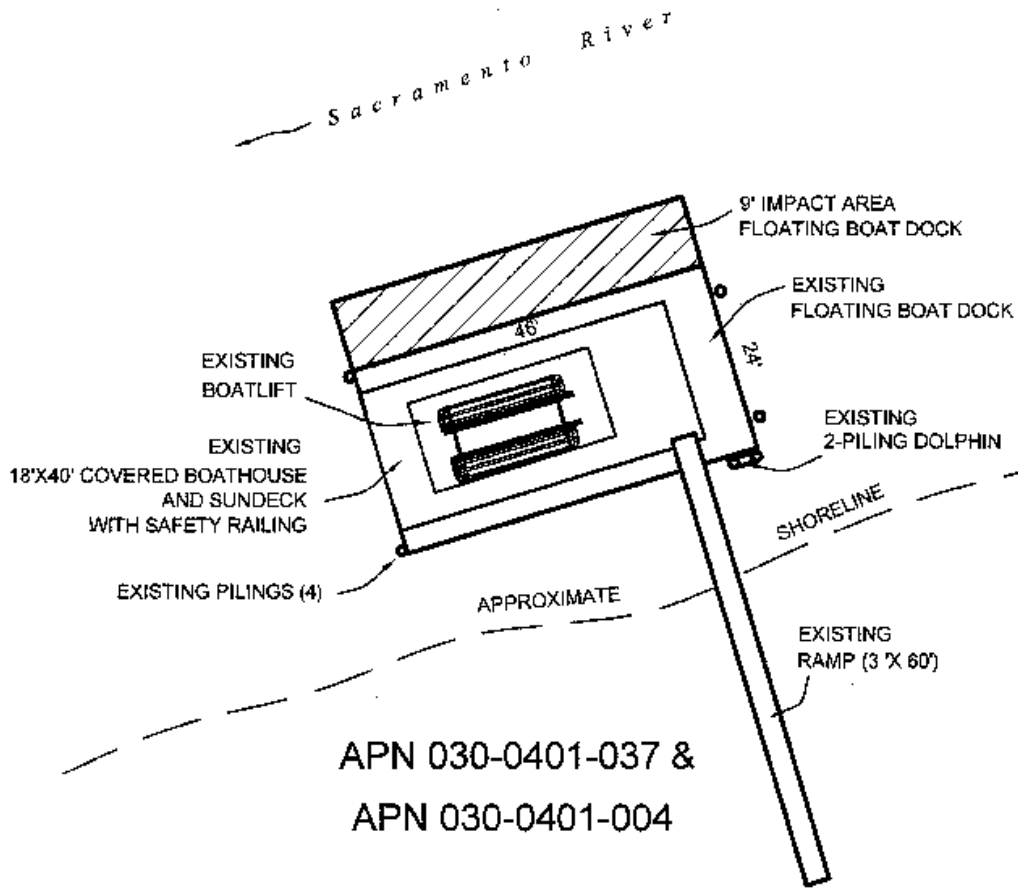
END OF DESCRIPTION

Prepared May 17, 2017 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



674 RIVERLAKE WAY, 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 5065.1
 VELLANOWETH
 APN 030-0401-004
 & APN 030-0401-037
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY



MJT 5/01/2017