

July 14, 2008

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Sacramento, CA 95814
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Via Hand Delivery

Honorable Mayor and
Members of the City Council of Sacramento
915 I Street
Sacramento, CA 95814

 MERITAS LAW FIRMS WORLDWIDE

Gary L. Bradus
916.558.6012 DIRECT
gbradus@weintraub.com

Re: Proposal to Terminate Sacramento Yacht Charters Agreements

Dear Honorable Mayor and Members of the City Council:

This firm represents Sacramento Yacht Charters, LLC ("SYC") and submits this letter on behalf of SYC to express opposition to the proposal to terminate City Agreements 2006-1306 and 2006-1307 (the "Agreements") between SYC and the City of Sacramento. On behalf of SYC, we submit the following responses to the issues raised by Barbara E. Bonebrake, Director, Convention, Culture, and Leisure Department in a staff report to the City Council dated July 15, 2008 for your consideration:

Introduction.

The staff report fails to include the responses of SYC to the issues raised, which responses have been provided to City representatives over the last year. We will present these prior responses for inclusion in the record at your meeting on July 15. SYC has worked diligently with City representatives to try to resolve the open issues. In fact, a City attorney prepared, and we commented on, a number of drafts of amendments to the Agreements which would have resolved the issues before the City unilaterally cancelled a meeting at which SYC had hoped to finally resolve all open issues. As recently as two weeks ago, City representatives advised a representative of SYC that the City wanted to again meet to discuss resolving the open issues. Instead, out of the blue, the City now is recommending termination of the Agreements.

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CLAIM: SYC Failed to Provide Final Plans for the Improvements to the South Barge.

It is our understanding that the City has the most recent construction plans for the south barge. These plans reflect significant and expensive changes from the original plans, which changes were required by the City and incorporated by the architect and engineer without SYC's consent. These changes include the City's desire that the charter vessel accommodate up to 400 people rather than 149 as originally contemplated. Due to this increase, the fire marshall would require an additional tower and ramp thereby significantly increasing the construction costs to SYC. Accordingly, SYC is not in default.

CLAIM: SYC Failed to Operate Riverboats in Conformance with the Schedules as Provided in the Agreements.

SYC is, in fact, operating in accordance with the Agreements. SYC has provided two historic paddlewheel tour boats as required by the Agreement – namely, the Spirit of Sacramento and the Matthew McKinley. Further, at least one of these vessels is available for the tours in compliance with the schedule attached to the Agreements. Public demand for these tours and vessels, however, has not supported the need to have both vessels in operation at the same time. If and when such demand occurs, SYC will have both vessels in operation at the same time. Nowhere in the Agreements does it require that each of the two vessels be in operation at the same time, absent the necessary demand.

You should also be aware that despite staff's assertion, the Matthew McKinley is not operating out of Stockton. On June 19th, the Matthew McKinley was used for a private charter for which SYC received \$3,000, 5% of which was then paid to the City. This is just another example of City representatives jumping to conclusions against SYC without investigating the actual facts.

CLAIM: SYC Failed to Operate Water Taxis in 2007 and Has Failed to Operate in Conformance with the Schedules Set Forth in the Agreements.

While it is true that SYC did not commence water taxi service during the 2007 season, its reasons for not doing so are well documented. First, SYC did not discover until late March 2007 that the water taxis it had acquired from the Sacramento Metropolitan Chamber of Commerce (the "Chamber") were not safe to operate. This was in direct conflict with (i) representations made by a representative of the Chamber that the water taxis had been adequately maintained and were safe and (ii) implied representations and warranties under the Uniform Commercial Code. A mandatory inspection by the Coast Guard resulted in the water taxis being red-tagged and deemed unsafe to operate. Rather than operate vehicles which would likely have caused serious injury and possibly death to its passengers, SYC chose not to operate. Instead, it expended over \$30,000 to have the water taxis inspected and repaired. Given the condition of the water taxis which the City required SYC to purchase, it was legally impossible for SYC to operate them during the 2007 season.

The water taxis are up and running and have been since April 1, 2008. Further, despite the City's assertions to the contrary, SYC is operating the water taxis in a manner substantially similar to the route of the prior service and in conformance with the schedules set forth in the Agreements.

CLAIM: SYC Failed to Provide an Amphibious Trolley that Complies with the American with Disabilities Act ("ADA").

The amphibious trolley is compliant with the ADA. To this date, the City has not provided a citation to any part of the ADA in support of its contention that SYC is not operating the trolleys in compliance with that law. SYC has reviewed the applicable law and is confident that the amphibious trolley is ADA compliant. Further, SYC is operating the amphibious trolley in a manner substantially similar to how comparable vessels are operated in other cities. SYC performed substantial due diligence in researching how comparable vessels were operated in other cities and selected a course of action consistent with operations in these other cities. At the City's request,

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SYC purchased a lift for disabled passengers at an expense to SYC in excess of \$7,000.

CLAIM: SYC Failed to Replace the Matthew McKinley.

SYC was preparing to commence the process of purchasing the replacement vessel in July 2007 when the City delivered to SYC a Notice of Default. As we have advised the City for almost a year now, it is unreasonable and a violation of the covenant of good faith and fair dealing for the City to expect SYC to expend the millions of dollars necessary to purchase a replacement for the Matthew McKinley after the City delivered to SYC a notice of default (which SYC disputes) and expressed an intent to terminate the Agreements. As we have consistently advised the City, SYC stands ready, willing and able to take the steps to replace the Matthew McKinley once all outstanding issues have been resolved between the parties and the City has rescinded its notice of default. SYC has previously offered to agree to benchmarks in connection with the replacement of the Matthew McKinley so that the City would have assurances regarding SYC's obtaining of the new vessel, a proposal which the City unreasonably rejected out of hand. Instead the City required SYC to provide proof of its ability to finance the acquisition of the Matthew McKinley replacement. SYC has already provided the City with proof of such ability (which the City rejected without any valid reason). Accordingly, SYC can and will obtain the replacement for the Matthew McKinley promptly upon the City rescinding its notice of default.

CLAIM: SYC Failed to Show that it has the Capital to Perform its Obligations under the Agreements.

SYC is not in default of the Agreements because it has failed to provide to the City certain financial information which the City has requested. Besides certain financial statements required to be provided to the City on June 15, 2008, SYC is not obligated by either of the agreements to provide additional financial information to the City.

In an effort to resolve prior claimed defaults, SYC voluntarily provided to the City a letter from Mr. Daniel Nelson at SkipperLiner dated December 28, 2007 which supports SYC's ability to obtain financing for the replacement boat for the

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Matthew McKinley. As noted in that letter, SYC has the financial ability and capacity to obtain financing to purchase the replacement boat for the Matthew McKinley, once the City withdraws its notice of default and the parties enter into amendments to the Agreements. SYC also provided to the City a proposal from GE Capital for the acquisition of the replacement vessel. For the South Barge, SYC previously provided to the City a conditional approval of a line of credit from West America Bank for financing of the improvements to the South Barge. A bank, however, will not issue an unconditional commitment letter under the current circumstances that exist between the City and SYC. SYC has acted in good faith in trying to satisfy these additional requests by the City, which requests SYC is not legally obligated to satisfy.

CLAIM: The Amphibious Trolley Was Not Built Specifically for the City and Does Not Meet the Seating Capacity Requirements.

The amphibious trolley was purchased by SYC specifically for use with the City. The amphibious trolley was not completely built out until after it had been purchased by SYC. Further, representatives of SYC presented pictures and plans for the trolley to representatives of the City (Ed Astone and Barbara Bonebrake) for approval and the City's representatives provided comments and suggestions to such plans. At no time did any City representative object to such plans or pictures and SYC was justified in concluding that the amphibious trolley was acceptable to the City. Any reduced seating capacity is immaterial as it was necessary to comply with the ADA and the amphibious trolley otherwise performs substantially as contemplated by the Agreements.

CLAIM: SYC Has Failed to Operate its Business Properly Resulting in Reduced Revenue.

The City claims that SYC has breached the Agreements because gross receipts are less than they were in previous years. The explanation for the drop in revenues is quite simple. Sacramento, the state and the nation are suffering through an economic downturn. Further, at every opportunity it seems City representatives are interfering with SYC's operations. SYC is doing everything it can to generate revenue, but it cannot, and is not required to, guarantee any level of spending by consumers. SYC is not required to generate any specific sum of revenue under the Agreements (although it

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does guarantee annual rent of \$60,000) and a decrease in revenues does not constitute an event of default.

CLAIM: SYC is in Default for Paying Rent Late.

SYC is not in default under the Agreements for failing to make rent payments. Under the Agreements, it is only an event of default if SYC does not pay its rent within 15 days after receipt of written notice of such default from the City. Since SYC has never received a notice of late payment from the City for any period after July 1, 2007, it is not in default in connection with its payment of rent.

CLAIM: SYC is Responsible for Damage to the Dock.

The City claims that SYC is in default of the Agreements because it failed to repair damage to the dock from an incident on May 20, 2008. The damage was not caused by any action of SYC, but rather by the inaction of the City in failing to maintain the dock as required by the terms of the Agreement. SYC made numerous requests over the last year and a half to the City asking that the City repair the docks, as required by the Agreements. Had the City repaired the dock as required by the Agreements, the damage from the incident on May 20, 2008 would have been limited to the Spirit of Sacramento, and not the docks. As a result, this damage was not caused by SYC. Therefore SYC is not responsible for repairing the damage.

CLAIM: SYC Has Not Submitted Audited Financials.

As stated previously, SYC was not required to submit financial statements until June 15, 2008. Due to the cost of submitting audited financial statements, SYC did not believe that the additional costs associated with audited financial statements were justified in this context. Rather, SYC has submitted compiled financial statements and SYC's accountant has been made available to answer any questions the City may have in connection with the financial statements.

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CLAIM: SYC Did Not Pay Moorage Charges on Island Girl.

As requested by the City, SYC removed Island Girl from the south barge so that it would not be in violation of any term of the Agreements with the City. SYC had previously moored Island Girl at the south barge with the consent of at least two City representatives (Ed Astone and Barbara Bonebrake), who advised SYC that no moorage would be due. The City now claims that SYC is obligated to pay for moorage of the Island Girl in the amount of \$7,980. SYC has disputed that \$7,980 is the appropriate amount owed for such moorage, as that charge reflects the availability of both water and electricity, and water and electricity were not available at the location where Island Girl was moored. SYC attempted to resolve this issue with the City when the City unilaterally decided that discussions were no longer necessary. SYC remains willing to pay the City a reasonable fee for such moorage following a discussion and determination of a reasonable rate.

In short, SYC is not in default under the Agreements as the City alleges. Therefore, the City does not have the right to terminate the Agreements. If the City terminates the Agreements, SYC will exercise all available legal remedies to recover all resulting damages.

Additional Misstatements in Staff Report.

In addition to the errors noted above, the staff report includes the following additional mistakes:

CLAIM: The "City has received an average of only \$55,000 per year in revenue from SYC."

FACT: Under Section 4D of Agreement 2006-1307, the City is guaranteed minimum annual rent and docking fees from SYC of \$60,000.

CLAIM: "SYC provided only 39 cruises (including charters) in May 2008, rather than the minimum of 48 regularly scheduled cruises plus chartered cruises."

FACT: SYC's records (which are available for inspection) show that SYC provided 80 cruises in May 2008.

CLAIM: "On Memorial Day weekend in May, SYC provided only one cruise on Saturday, two on Sunday, and none on Monday."

FACT: The City hosts the Jazz Jubilee in Old Sacramento during Memorial Day weekend and chose to close the streets to vehicles. Almost all visitors to Old Sacramento were there for the Jazz Festival which reduced the demand for cruises. Still, SYC ran four cruises on Saturday and five on Sunday. The City cannot hold SYC responsible for the impact of the City's own decision to hold the Jazz Festival and close off streets. The City has closed the streets on at least three other occasions.

Questions Raised.

Clearly, the parties disagree regarding the facts surrounding the performance of SYC under the Agreements. These disagreements highlight significant questions which must be answered before the Council can make a well-informed decision regarding the Agreements. These questions include:

1. Why have City representatives unjustifiably interfered with SYC's operations by imposing unreasonable requirements when the Agreements provide for percentage rent so that the better SYC does, the better the City does?
2. Why have City representatives proposed terminating the Agreements when less than 2 weeks ago they communicated a desire to meet to try to resolve the open issues?
3. What assurances does the City have that a new RFP will result in a new operator who can operate more successfully than SYC?
4. Why would the City terminate the Agreements during the busy season thereby reducing the revenues to the City even further?

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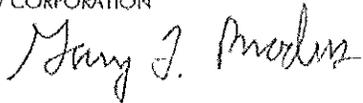
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Recommendation.

Most of the issues raised by the City are the result of communication problems between SYC representatives and City representatives, and actually have very little financial impact. Earlier this year, the parties had a number of meetings to discuss resolving the open issues and a City attorney prepared draft amendments to the Agreements. A hopefully final meeting between the parties was scheduled when the City unilaterally elected to cancel it. Given that it is currently the busy season for activities on the waterfront in Old Sacramento, it makes no sense to terminate the Agreements now. Rather, the Council should require City representatives to meet with SYC representatives to resolve the open items and finalize and sign amendments to the Agreements to reflect the current economic times and provide appropriate assurances of performance for both parties.

Very truly yours,

weintraub genshlea chediak
LAW CORPORATION



Gary L. Bradus

Cc: Mr. Roy King
Ms. Barbara Bonebrake
Mr. Robert Tokunaga
Mr. John Gueola
Mr. Frank Andrews
Mr. David Stroud
Ms. Cassandra Jennings
Mr. Roy Kerridge

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June 13, 2008

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VIA E-MAIL/REGULAR MAIL

Angela M. Casagrande
Senior Deputy City Attorney
City of Sacramento
P.O. Box 1948
Sacramento, CA 95812-1948

Re: City Agreement 2006-1307

Dear Ms. Casagrande:

I am in receipt of your letter of June 10, 2008 in which you allege on behalf of the City that Sacramento Yacht Charters, LLC ("SYC") is in default of the above-referenced agreement (the "Agreement"). For the reasons set forth below, we disagree with that conclusion as SYC is not in default of the Agreement.

You state that Section 7.A of the Agreement requires SYC to provide two river boats for tours and that Section 8.A of the Agreement requires SYC to provide river boat tour services for the general public in substantial accordance with the schedule set forth in Schedule G to the Agreement. You then summarily declare that SYC is in default of these sections of the Agreement. SYC is, in fact, operating in accordance with both of those Sections and schedule G. SYC has provided two historic paddlewheel tour boats as required by the Agreement – namely, the Spirit of Sacramento and the Mathew McKinley. Further, at least one of these vessels is available for the tours in compliance with the schedule set forth on Schedule G to the Agreement. Public demand for these tours and vessels, however, has not supported the need to have both vessels in operation at the same time. If and when such demand occurs, SYC will have both vessels in operation at the same time. Nowhere in the Agreement does it require that each of the two vessels be in operation at the same time, absent the necessary demand.

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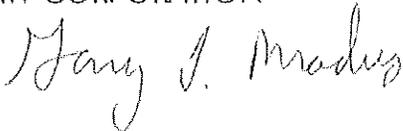
Both the Spirit of Sacramento and the Mathew McKinley are available for operation. SYC is making the tours available to the public in accordance with the schedule, but a boat is actually embarking only at such times as there are passengers for those tours. Again, if demand increases, the vessels will be embarking the four times set forth on the schedule and SYC will utilize Mathew McKinley to satisfy the increased demand, if necessary.

Accordingly, SYC is not in default under the Agreement as the City alleges. Therefore, the City does not have the right to terminate the Agreement or take possession of the premises and all improvements, equipment and inventory. If the City attempts to do so, SYC will exercise all available remedies to prevent such actions.

If you have any questions, please contact me.

Very truly yours,

weintraub genshlea chediak
LAW CORPORATION



Gary L. Bradus

GLB/dmg

Mr. Roy King
Ms. Barbara Bonebrake
Mr. Robert Tokunaga
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June 13, 2008

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Re: Sacramento Yacht Charters, LLC
City Agreements 2006-1306 and 2006-1307

Dear Ms. Casagrande:

I have received your letter of June 3, 2008 in which you state that Sacramento Yacht Charters, LLC ("SYC") is in default of the above-referenced agreements. As I have set forth in prior correspondence and as set forth more fully below, SYC is not in default of the agreements. I will address your alleged defaults in the order they appear in your letter.

1A. Financial Information. You claim that SYC is in default of the agreements because it has failed to provide to the City certain financial information which the City has requested. In your letter, you fail to cite to any section of either of the agreements in support of the default alleged by the City. This is because no section of either of the agreements supports your claim of default. SYC is not obligated by either of the agreements to provide the financial information you have requested. The agreements do require SYC to submit certain financials by June 15, 2008 and it will provide such financials by that deadline. In an effort to resolve prior claimed defaults, SYC representatives and myself commenced a dialog with the City to attempt to resolve the open issues and SYC voluntarily provided certain information to the City. SYC representatives were prepared to attend a meeting with City representatives at which all open issues were to be resolved. Rather than holding that meeting, however, the City unilaterally cancelled it and has taken no further steps towards resolving the issues. In any event, the alleged failure to provide financial information is not a default as it does not violate any provision of the agreements.

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1B. Failure to Honor Contractual Obligations. In this section, you cite amounts owed to CSRSM [sic] Architects and a number of lawsuits that have been filed against SYC as evidence of a default by SYC under the agreements. Again, however, you fail to cite to any section of either of the agreements as support for any of these events constituting a default by SYC. Again, this is because no section of either of the agreements provides an event of default upon which the City can rely. Although not relevant to a discussion of default, SYC is currently in discussions with CRMS Architects to resolve its outstanding claim. As we have previously advised City representatives on numerous occasions, SYC has serious issues with some of the work provided by CRMS Architects. Nevertheless, we hope to have this issue resolved shortly. The same is true with respect to the lawsuits which you cite. The bottom line, however, is that none of these claims constitute an event of default under either of the agreements.

1C. Failure to Obey City Orders. In this section, you state that SYC failed to obey an order of Barbara Bonebrake to remove the Island Girl from the south barge. SYC has indeed removed Island Girl from the south barge so that it is not in violation of any term of any agreement with the City. Therefore, the only question is the appropriate amount of moorage, if any, that SYC is obligated to pay to the City for the Island Girl. As we have advised you previously, SYC disputes that \$7,980 is the appropriate amount owed for such moorage. Rather, the City is attempting to charge SYC a significantly higher rate than it would charge other customers for similar moorage space. This was one of the issues we were attempting to resolve in our discussions with the City when the City unilaterally decided that discussions were no longer necessary. SYC remains willing to pay the City a reasonable fee for such moorage following a discussion and determination of a reasonable rate.

2. Failure to Cure Events of Default Identified in the July 25, 2007 Notice of Default. SYC has previously responded to these alleged defaults in detail by letter dated July 30, 2007, a copy of which is again enclosed. For some reason, the City has chosen to ignore SYC's position without explanation. Again, the parties were engaged in meaningful discussions to resolve these issues when the City unilaterally cancelled any further discussions. SYC remains committed to a meeting to discuss and resolve these issues.

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2.A Water Taxi Service. While it is true that SYC did not commence water taxi service during the 2007 season, its reasons for not doing so are well documented. First, SYC did not discover until late March 2007 that the water taxis it had acquired from the Sacramento Metropolitan Chamber of Commerce (the "Chamber") were not safe to operate. This was in direct conflict with representations made by a representative of the Chamber that the water taxis had been adequately maintained and were safe. Rather than operate vehicles which would likely have caused serious injury and possibly death to its passengers, SYC chose not to operate. Instead, it expended significant sums to have the water taxis inspected and repaired. Given the condition of the water taxis which the City required SYC to purchase, it was legally impossible for SYC to operate them during the 2007 season.

As you know, the water taxis are up and running and have been since April 1, 2008. Further, despite the City's assertions to the contrary, SYC is operating the water taxis in a manner substantially similar to the route of the prior service. As a result, there is no default in connection with the water taxis.

2B. Payment of Minimum and Percentage Rent. You state that SYC is in default of the minimum and percentage rent obligations under the agreement. SYC disputes that allegation. As the parties have previously agreed and as set forth in the draft of the amendment to the agreement you drafted, the L Street barge agreement did not commence until July 1, 2007. Accordingly, minimum and percentage rent under that agreement were not due until after that date. This issue was resolved during the extensive negotiations between the parties, which the City unilaterally broke off, and is only now being reintroduced by the City.

You also state that SYC has been late in paying the rent due under the agreement. While this may be an inconvenience to the City, it is not an event of default under the agreement. Rather, it is only an event of default if SYC does not pay its rent within 15 days after receipt of written notice of such default from the City. Since SYC has never received a notice of late payment from the City for any period after July 1, 2007, it is not in default in connection with its payment of rent.

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2C. Trolleys. In your letter, you allege that SYC is in default with respect to the acquisition and operation of the amphibious trolleys. Such is clearly not the case. The amphibious trolley is compliant with the American with Disabilities Act ("ADA"). The City has made these allegations of non-compliance without referencing any applicable law that supports its contention. Rather than simply making a bald statement of non-compliance, please provide us with citations to applicable law to support your claim of non-compliance. SYC has reviewed the applicable law and is confident that the amphibious trolley is ADA compliant.

Further, the trolley was purchased by SYC specifically for use with the City. The amphibious trolley was not completely built out until after it had been purchased by SYC. Further, representatives of SYC presented pictures and plans to representatives of the City for approval and the City's representatives provided comments and suggestions to such plans. At no time did any City representative object to such plans or pictures and SYC was justified in concluding that the amphibious trolley was acceptable to the City.

You also state that the amphibious trolley violates the terms of the agreement due to its seating capacity. Any such reduced seating capacity is immaterial as the amphibious trolley performs substantially as contemplated by the agreement.

2D. Failure to Replace the Mathew McKinley. As we have advised the City for almost a year now, it is unreasonable and a violation of the covenant of good faith and fair dealing to expect SYC to expend the millions of dollars necessary to purchase a replacement for the Mathew McKinley after the City has delivered to SYC a notice of default (which SYC disputes) and expressed an intent to terminate the agreement. As we have consistently advised the City, SYC stands ready, willing and able to take the steps to replace the Mathew McKinley once all outstanding issues have been resolved between the parties and the City has rescinded its notice of default. SYC has previously offered to agree to benchmarks in connection with the replacement of the Mathew McKinley so that the City would have assurances regarding SYC's obtaining of the new vessel, a proposal which the City unreasonably rejected out of hand. Instead the City required SYC to provide proof of its ability to finance the acquisition of the Mathew McKinley replacement. As you seem to have forgotten, SYC has already provided the City with proof of such ability. Accordingly, SYC can and will obtain the replacement for the Mathew McKinley promptly upon the City rescinding its notice of default.

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2E. Hours of Operation, Gross Receipts. You now claim that SYC has breached the implied covenant of good faith and fair dealing because the gross receipts payable for the last five months are less than they were for the same five months in the previous year. Please provide us with any evidence you have to support this ridiculous claim. The explanation for the drop in revenues is quite simple. Sacramento, the state and the nation are suffering through an economic down turn. SYC is doing everything it can to generate revenue, but it cannot, and is not required to, guarantee any level of spending. SYC is not required to generate any specific sum of revenue under the agreement and your statement that a decrease in revenues constitutes an event of default is not supported by the facts or the law.

2F. Failure to Repair Damage to the Premises Caused by SYC. You next state that SYC is in default of the agreement because it failed to repair damage to the dock from an incident on May 20, 2008. In making this statement, you fail to recognize SYC's position as was previously communicated to you by my e-mail of May 23, 2008, a copy of which I attach. As set forth in that e-mail, the damage was not caused by any action of SYC, but rather by the inaction of the City in failing to maintain the dock as required by the terms of the agreement. I enclose copies of just a few of the numerous communications sent over the last year and a half from representatives of SYC to the City asking that the City repair the docks, as required by the agreement. Had the City actually repaired the dock as required by the agreement, the damage from the incident on May 20, 2008 would have been limited to the Spirit of Sacramento, and not the docks. As a result, this damage was not caused by SYC. Therefore SYC is not responsible for repairing the damage. Please note that SYC did not claim that "a missing plank of wood below the dock was the sole cause of the damage." Rather, as set forth in my enclosed e-mail, our claim, supported by the facts, is that the damage was caused because the City did not install the required bumpers which are standard in placement on the side of docks.

You also state that an engine failure was the cause of the incident. Please provide us with evidence for that conclusion. No such engine failure occurred and SYC has a declaration from the captain of the Spirit of Sacramento on that date that no engine failure occurred. Rather, as you may recall, it was extremely windy on May 20, 2008. The Spirit of Sacramento was close to docking when a large gust of wind caused it to be blown into the

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dock. Again, had the standard and ordinary fenders been in place, no damage would have been suffered by the dock.

In addition, I am advised that a City representative directly contacted SYC's insurance carrier to make a claim in connection with this incident. Such action is unauthorized and SYC expects that it will not happen again.

3. Breach of City Agreement No. 2006-1306.

A. Failure to Provide Construction Plans to the City. I understand that the City has the most recent construction plans for the south barge. Therefore, SYC is not in default of that agreement.

B. Abandonment, Vacation or Discontinuance of Operations. SYC is not in default of the agreement due to an abandonment, vacation or discontinuation of its operations on the premises. Pursuant to the terms of the applicable agreement, there is no requirement that SYC be operating on the premises at this time. Rather, operations do not commence until after the south barge improvements have been constructed. Therefore, there is no such default.

As set forth above, SYC disputes each and every default alleged by the City. If the City elects to attempt to terminate the agreements, SYC will take all appropriate actions to defeat such attempts, including without limitation bringing its numerous claims against the City. SYC has spent tremendous sums of money in operating the business and in responding to various demands of the City, many of which were unnecessary but were done to placate City officials.

As you know, the agreements between the City and SYC provide for percentage rent. Accordingly, the better SYC does, the more money the City receives pursuant to the agreements. Given this situation, one would expect that the City would be taking every opportunity to assist SYC in its operations. Instead of cooperating, the City has taken every opportunity to put up road blocks to SYC's successful operation. In addition, the City has selectively enforced provisions against SYC that it is not enforcing against other tenants in Old Sacramento. This includes, without limitation, enforcement of the sign ordinance which SYC was forced to comply with while the City allows SYC's neighbors to

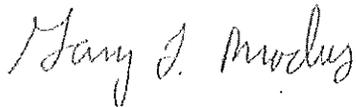
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continue to use non-compliant signs. SYC representatives remain willing to meet with City representatives in an attempt to resolve the issues between the parties. Please contact me at your earliest convenience to set up such a meeting.

Very truly yours,

weintraub genshlea chediak
LAW CORPORATION



Gary L. Bradus

GLB/dmg
Enclosures

cc: Mr. Roy King (w/o encls.)
Ms. Barbara Bonebrake (w/o encls.)
Mr. Robert Tokunaga (w/o encls.)
Mr. John Gueola (w/o encls.)
Mr. Frank Andrews (w/o encls.)
Mr. David Stroud (w/o encls.)
Ms. Cassandra Jennings (w/encls.)
Mr. Ray Trethaway (w/encls.)
Mr. Ray Kerridge (w/encls.)

{12780/15329/GLB/1039215.DOC;}

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JASON W. HOLDER
MELANIE SENGUPTA
LAURA M. HARRIS
KATHRYN C. COTTER

July 30, 2007

VIA HAND DELIVERY

Barbara E. Bonebrake, Director
Convention, Culture and Leisure
City of Sacramento
1030 15th Street, Suite 250
Sacramento, CA 95814-4025

**Re: Sacramento Yacht Charters Response to Demand for Correction and Notice
of Events of Default under City Agreements 2006-1306 and 2006-1307**

Dear Ms. Bonebrake:

This will acknowledge receipt of your letter of July 25, 2007, addressed to Mr. Roy King with Sacramento Yacht Charters, LLC (“SYC”) and me regarding the City of Sacramento’s allegations that SYC is in default under City Agreements 2006-1306 and 2006-1307. As set forth more fully below, SYC disputes these alleged events of default and insists that SYC is in full compliance with the terms of both of the Agreements. I will address the alleged events of default in the order you raise them in your letter.

- A. City Agreement No. 2006-1307.
1. Demand for Performance of Water Taxi Service and Correction of Condition of Water Taxis.

The City first alleges that SYC is in default because it did not provide water taxi service starting in April 2007. Pursuant to the terms of the Agreement, however, SYC was not required to commence such service as of that date. Rather, Section 7.B.2. of the Agreement requires that SYC “make good faith efforts to be in ownership and operational control of the water taxi program by July 1, 2007.” Therefore, the Agreement

Barbara E. Bonebrake, Director

July 30, 2007

Page 2

requires only that SYC make good faith efforts to operate the water taxis by July 1, 2007; not that it actually be operating them. SYC has made, and continues to make, good faith efforts to obtain ownership and operational control of the water taxis. As you are well aware, the condition of the water taxis was substantially less than as represented to SYC by the sellers and they need significant repairs (Currently, the estimates for repair exceed \$40,000.00). The City cannot claim that SYC is in default of the Agreement because it did not start the water taxi service in April 2007 when the Agreement gives SYC until July 1, 2007 to make good faith efforts to be in ownership and operational control of the water taxis.

SYC is continuing to work with the Sacramento Metropolitan Chamber of Commerce ("Chamber") to handle the numerous and significant repairs that are required to ensure the safe operation of the water taxis. SYC has received estimates for the repairs and will soon be commencing those repairs, once they are agreed upon by SYC and the Chamber. These repairs may ultimately need to be expanded based upon the requirements of the Coast Guard, but SYC will ensure that all required repairs are made. Ultimately, the Coast Guard makes the decision when the water taxis can be used for public water taxi service. Thus, while we are diligently pursuing options to return the taxis to service on the Sacramento River, a third party determines whether the water taxis are fit for public use.

Importantly, none of the damages to be repaired were caused by the actions of SYC. Rather, the damage to the taxis existed when the previous operator, WAVES, ceased operations. While a representative of WAVES advised representatives of both the Chamber and SYC that the only repairs needed were normal and routine maintenance, and SYC reasonably relied upon these representations from a party who was responsible for the taxis' upkeep, it is now clear that more than standard maintenance is required.

Now that it is evident that more significant repairs are required, SYC will make those repairs and work diligently to provide water taxi service as soon as possible. Pursuant to Section 24.A.3. of the Agreement, SYC may cure an alleged default within thirty days of notice of default, except that where curing the default requires activity over a period of time, and SYC has commenced performance of whatever may be required to cure the default within ten days after notice of default and continues such performance diligently to completion, the thirty day requirement shall be waived. Accordingly, SYC has commenced actions necessary to repair the water taxis and will continue to work diligently to complete those repairs and provide water taxi service pursuant to the terms of this Agreement. SYC's actions in this regard will constitute a cure of any event of default alleged.

2. Failure to Pay Minimum and Percentage Rent Payments and Submit Report Showing all Gross Receipts.

The City alleges that SYC has failed to pay rent due under the Agreement. SYC disputes that it is in default of any provisions regarding rent. SYC has made all percentage rent payments due under the original Agreement in a timely manner. Further, at a meeting in your office last month, all parties agreed that minimum rent would not be due and payable until July 2007. This agreement was reflected in an amendment to the Agreement distributed by Angela Casagrande of the City Attorney's Office showing a July 1, 2007 effective date. SYC agreed to the terms of the amendment, but the City has not distributed a clean copy for signature. While the terms of the Agreement as amended do not require SYC to pay rent until July 2007, I am informed that SYC made the minimum rent payment for the month of July 2007 under the terms of the new Agreement on or about July 1, 2007.

Further, SYC is not in default of any rent provisions with respect to operation of the Island Girl. As you know, the Island Girl is a temporary replacement for the Matthew McKinley. The Matthew McKinley was exempt under the original Agreement from payment of the percentage rent. Since the Island Girl is a replacement for the Matthew McKinley, it too is exempt from percentage rent under the original Agreement. Despite this exemption, SYC paid the five percent minimum rent for April, May and June 2007. In fact, I am informed that Ms. Stem has now advised SYC that it overpaid the City and that the City will refund to SYC the three months of the percentage rent which SYC paid for the Island Girl when it was not contractually obligated to do so.

SYC will pay all percentage rent for July 2007 and submit all required reports on or before August 20, 2007, as required by the Agreement. Accordingly, SYC is not in default of these provisions.

3. Moorage of Island Girl on the Premises.

The City alleges that SYC is in default of the Agreement because it moored the Island Girl at the Tour Boat Dock for more than one hour prior to and following a charter on certain specified dates without a Facility Use Permit from the City. SYC does not deny that it moored the Island Girl at the Tour Boat Dock on these dates. However, SYC received prior approval from Ed Astone on behalf of the City to moor the Island Girl on those dates. For each date cited in your letter, SYC provided advance notice to Mr. Astone of its desire to moor the boat at the Tour Boat Dock for an extended period. Mr. Astone in turn advised SYC that such mooring was acceptable and that he would advise SYC if any problems arose. While the Island Girl was moored at the Tour Boat Dock, no one on behalf of the City advised SYC that it was no longer permissible to moor the boat.

Barbara E. Bonebrake, Director

July 30, 2007

Page 4

In addition, the City allows other boats not meeting the definition of a western-style historic paddlewheel boat to be moored at the Tour Boat Dock without objection. The City's rules must be applied consistently to all operations. Please note that in order to effectively operate the Island Girl, SYC needs to moor at the barge for two hours prior to and two hours after each scheduled charter. SYC will need to reach a mutual understanding with the city about this issue.

In any event, I understand that SYC and the City are working on an agreement to allow the Island Girl to be moored at the south river barge and to be present for periods longer than an hour. Accordingly, SYC will cure any default occurring under these provisions.

4. Failure to Provide Statement of Cash Handling Procedures.

The City alleges that SYC was required to provide a statement of its cash handling procedures to the City and failed to do so. In fact, representatives of SYC have had discussions with Mr. Astone regarding SYC's cash handling procedures and SYC received verbal approval of those procedures. However, to be in strict compliance with the Agreement, it will also submit a written statement during the applicable cure period set forth in Section 24.A.3. of the Agreement so as to not be in default of the Agreement.

The City also alleges that SYC has not obtained or installed City-approved cash registers or accounting equipment on the Island Girl. That is not correct. The cash registers and other equipment currently located on the Island Girl were moved from the Matthew McKinley. Since the City approved the cash registers and other equipment on the Matthew McKinley, it has implicitly, if not expressly, approved the same equipment when being used on the Island Girl.

5. Defaults Regarding the Amphibious Trolleys.

The City alleges that SYC is in violation of the Agreement because the amphibious trolleys were not built specifically for, and in consultation with the City. Again, SYC disputes these allegations. Further, your letter simply states that the City was not consulted, but does not state any actual issues which the City has with the design or appearance on the amphibious trolleys. Moreover, SYC representatives consulted with City representatives with respect to the design of the amphibious trolleys. SYC shared pictures of the proposed trolleys and also discussed with City representatives the colors and names for the trolleys. At no time did anyone on behalf of the City raise concerns or issues regarding the design or appearance of the trolleys or any other issues. In fact, it is our understanding that representatives of the City have now approved of the boat design.

In addition, despite the City's assertion to the contrary, the amphibious trolley does have a 44 passenger capacity. The trolley currently has seats for 44 people; however, in order to be compliant with the Americans with Disabilities Act as required by Section 18.A. of the Agreement, SYC is prepared to convert what are otherwise seats for four passengers to space for two passengers with disabilities. SYC does not believe that this violates the terms or spirit of the Agreement.

You also state that SYC purchased a used trolley. Again, that is not correct. While SYC purchased the trolley from an operator in Philadelphia, the trolley had never been used.

The City further alleges that the Agreement requires SYC to provide two trolleys. This is again incorrect. Section 7.C.1. of the Agreement clearly states that SYC will provide at least one amphibious trolley. SYC has met that requirement. The parties have discussed the possibility that SYC could provide another trolley and it is SYC's intention to do so at some later date. However, the Agreement does not require SYC to currently have two trolleys in operation. Exhibit G, which the City cites to, discusses schedules for two trolleys and was prepared in contemplation of the time when SYC places two trolleys in operation. This does not imply any obligation on SYC to provide two trolleys at this time.

The City next alleges that SYC is in violation of the terms of the Agreement because it operated the amphibious trolley without charging passengers. A review of the Agreement demonstrates that no provision requires SYC to charge for every ride on a trolley. Rather, common business sense dictates that SYC may conduct reasonable marketing and promotion of the amphibious trolleys. This marketing and promotion created a huge "buzz" in the community regarding the trolleys which will ultimately result in increased revenue from the operation of the trolleys. The City will, of course, benefit from such increased revenue. If the City disagrees with this conclusion, please indicate what specific section of the Agreement prohibits SYC from marketing and promoting the trolleys.

Finally, the City alleges that SYC does not have all of the necessary permits and licenses to operate the trolley. SYC has now submitted all necessary papers to the Public Utilities Commission and has obtained a license plate for the trolley from the Department of Motor Vehicles. In addition, SYC has already commenced to cure this issue with the Highway Patrol and all other applicable agencies. Therefore, SYC is not in default pursuant to Section 24.A.3. of the Agreement.

6. Failure to Obtain Entertainment Permit.

Barbara E. Bonebrake, Director
July 30, 2007
Page 6

SYC will commence to cure its failure to have an entertainment permit within ten days of your letter in accordance with the provisions of Section 24.A.3 of the Agreement.

7. Matthew McKinley Replacement.

The City has asked for assurances that SYC will replace the Matthew McKinley by March 1, 2008. The Agreement, however, does not require SYC to give such assurances. SYC has been waiting for approval from the State Lands Commission of the Agreements with the City before undertaking the large investment necessary to purchase a replacement for the Matthew McKinley. The March 1, 2008 replacement date cited by the City was based on obtaining approval from State Lands Commission within 90 days of execution of the Agreements. Such approval, however, did not occur until May 10, 2007. By separate letter, we request a copy of the State Lands Commission Lease. Due to this delay in obtaining the approval of State Lands Commission, SYC justifiably did not order a \$4.5 million replacement vessel. Having now received approval from State Lands Commission, SYC will take all steps necessary to obtain the replacement for the Matthew McKinley promptly following resolution of any disagreements between the parties with respect to this Agreement. However, SYC is unwilling to order the vessel unless and until all issues described herein are fully resolved.

B. City Agreement No. 2006-1306.

1. Failure to Provide Construction Plans to the City.

Finally, the City alleges that SYC was required to deliver complete construction plans to the City within 60 days of execution of this Agreement. SYC was justifiably waiting for approval of the State Lands Commission of this Agreement before endeavoring to develop plans for the contemplated construction. Because the consent of the State Lands Commission was delayed, SYC's efforts in this regard were also delayed. In any event, SYC has commenced to prepare and submit the construction plans and will do so in accordance with the terms of the Agreement, thus curing any alleged default.

We request that the City provide a copy of the lease with the State Lands Commission.

* * * * *

I trust that this has responded to all of the City's issues. We would be more than happy to sit down with you and other City representatives to resolve any open issues regarding the Agreements. However, it is important to reiterate that we are reluctant to make additional

Barbara E. Bonebrake, Director

July 30, 2007

Page 7

financial investment until we know that each and every issue set forth herein is resolved in a manner acceptable to the City. We cannot order the Matthew McKinley replacement, the second trolley or close the deal on the water taxis until the city gives us a clear signal to move forward. Please contact me at your convenience to set up such a meeting.

Very truly yours,



Tina A. Thomas

cc: Ray Kerridge
Cassandra Jennings
David Stroud
Gary L. Bradus, Esq.
Angela Casagrande, Esq.

Gary Bradus

From: Gary Bradus
Sent: Friday, May 23, 2008 3:14 PM
To: Angela Casagrande; Barbara Bonebrake; 'Annabeth Stern'
Cc: 'Roy King'; 'John Gueola'; rpatane@sacyachts.com; Robert Tokunaga
Subject: Sacramento Yacht Charters

Attachments: Gary Bradus.vcf

Angela,

I write in response to Annabeth's e-mails to Rich Patane regarding the incident with the Spirit of Sacramento on May 20th. The City has taken the position that Sacramento Yacht Charters is responsible to repair the damage to the dock from that incident. As set forth more fully below, we disagree with that conclusion as the City is responsible for these repairs.

Section 19B of the agreement requires SYC to repair any and all damage to City property "if caused by SYC or any officer, agent or employee of SYC." The damage caused by the incident was not caused by SYC or an officer, agent or employee of SYC. Section 6E of the agreement requires the City to maintain the wharves, docking and access areas. Representatives of SYC have been asking the City to comply with this provision of the agreement for more than 2 years by asking the City to install the necessary fenders (also known as bumpers) to this portion of the docks. SYC's requests to the City in this regard are well documented over this time period. Despite SYC's repeated requests that the City perform this necessary maintenance (fenders are standard and required on docks to avoid just the type of damage caused by the incident), the City failed to do so. Had the City installed the necessary fenders as required by the agreement and requested by SYC, the damage on the 20th would not have occurred. Rather, the only damage would have been to Spirit. As a result, the damage was caused by the actions or inaction of the City, and not by SYC. SYC reiterates its demand that the City comply with its obligations to maintain the docks by performing the necessary repairs. If the City does not have the funds necessary to perform such work, SYC would consider paying for the work (once the parties agree on the scope of work) and deducting the cost from amounts otherwise due under the agreement. Also, to the extent it is relevant, I wanted to refute Annabeth's statement that the Spirit lost power. That was not the case.

On a related item, representatives of my client advise me that access to the trolley has been cut off by the City in connection with the jazz festival. This is to notify you that SYC is entitled to an abatement of rent during the period its access to the trolley is cut off pursuant to Section 6F of the agreement.

Finally, unfortunately, SYC just learned that it must appear in the small claims court on the morning of June 4th in connection with a case in which it is the plaintiff against a customer who failed to pay for services. SYC is not able to reschedule that hearing. As a result, we ask that the examination be moved to June 5th at 9:00 a.m. Please let me know if this works for the City or, if not, what date and time will work. Gary

Gary Bradus

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(916) 558-6012 - Direct
(916) 446-1611 - Facsimile
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Privileged/Confidential Information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply email. Please advise immediately if you or your employer does not consent to Internet email for messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of my firm shall be understood as neither given nor endorsed by it.

IRS CIRCULAR 230 DISCLOSURE:

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice

Attn: Gary Bradus 446-1611

Annabeth Stem
Administrative Officer
1111 Second Steet
Suite 300
Old Sacramento
California, 95814

Dear Annabeth,

Here are the results of the items we touched on from our meeting on 10/03/07.

1. As requested, we will be repainting the ticket booth providing the city make the necessary repairs to the docks. I pointed out these areas to you earlier today. As you are aware, these problems pose public safety risks and need to be resolved.
2. I want to thank you for resolving the cash register issue.
3. I checked with Mr. King in reference to the location of the Water Taxi berthing and I was advised that a letter issued by Barbara Bonebreak said that we can park them where the Chamber of Commerce previously had them berthed. See attached photo.

Should you have any questions regarding any of these matters, please feel free to give me a call.

Sincerely,

Rich Patane
General Manager
Sacramento Yacht Charters
916-671-9157

I spoke with Marcia Eymann, City of Sacramento History and Archives Manager, and confirmed that she received the application for SYC's office signs(s). However, the application packet was incomplete; there were no drawings of the proposed sign(s) nor site plans attached.

Please review the sign permit instructions again (attached) and ensure that you have submitted a complete and accurate application package for review. Ms. Eymann will not be able to review your application until she receives all the required materials.

Attached is an invoice for the Island Girl moorage at the south barge for the period Feb 6 - March 15, 2008. I have also attached the invoice for Nov 23, 2007 - Feb 6, 2008 moorage which has not yet been paid.

Please remit the full amount for both invoices to our office as soon as possible.

Thank you,
Annabeth

Annabeth Stem
City of Sacramento
Old Sacramento Division
1111 2nd Street, 3rd floor
Sacramento, CA 95814
Phone (916) 808-7032
Fax (916) 808-7286
astem@cityofsacramento.org
Mail Code: 4360

>>> "Richard Patane" <rpatane@sacyachts.com> 3/13/2008 2:27 PM >>>
Dear Annabeth,

We have a few issues that need to be addressed.

- 1) In reference to the exterior sign, we have completed the appropriate paperwork and forwarded it to the review committee.
- 2) Per the instructions of the city, Island Girl will be moved during the week of March 15th, 2008.

3) We are putting you on official notice that the dock repair promised by you and Barbara have not been repaired, causing possible damage to our boats and to customers of Old Sac. I strongly urge you that these repairs be completed. Should you be unable to comply, we will have the repairs completed.

Richard Patane
General Manager
Sacramento Yacht Charters
Office: 916-552-2933

>>> Annabeth Stem 2/23/2008 3:24 PM >>>
Rich and John,

The recently-installed Sacramento Yacht Charters hanging sign at 1107 Front Street in Old Sacramento (see attached photo) is in violation of the Old Sacramento Special Sign District ordinance, Sacramento Municipal Code Chapter 15.152.

Per the Old Sacramento sign ordinance, all signs must display a valid permit tag. The permit tag currently affixed to SYC's new sign, tag #S-15380, is not a valid permit. That permit tag number is not listed as a valid tag number in the City Development Services Department database.

In order to obtain a valid sign permit tag, you must complete the sign permit process as described in the attached "Old Sac sign permit instructions" document. I have also attached the various application forms and other materials, as well as a copy of the Old Sacramento sign ordinance, here for your convenience.

January 2, 2008

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gbradus@weintraub.com

VIA FACSIMILE (916) 808-7455

Angela Casagrande, Esq.
City of Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814-2604

Re: Sacramento Yacht Charters, LLC

Dear Ms. Casagrande:

I write this letter in further response to your letter to me of December 4, 2007. In your letter, you reiterated the City's request for audited financial statements of Sacramento Yacht Charters, LLC ("SYC"). As I noted in my letter to you of December 10, 2007, the current agreements between the City and SYC do not yet require SYC to deliver audited financial statements to the City. Rather, audited financial statements are not required until June of this year. Nevertheless, SYC has previously delivered financial statements to you. Finally, as we have advised you numerous times previously, the accountant for SYC is available to discuss the financial statements he has provided and answer any questions that the City might have regarding them. Accordingly, SYC has complied with any requirements regarding financial statements.

In addition, the City has asked SYC to provide further proof that SYC can obtain financing to fund the purchase of the replacement boat for the Matthew McKinley. I previously provided to you a letter from SkipperLiner evidencing SYC's ability to obtain such financing. I attach for your review an additional letter from Mr. Daniel Nelson at SkipperLiner dated December 28, 2007 which further supports SYC's ability to obtain financing for the replacement boat for the Matthew McKinley. As noted in that letter, Mr. King and Mr. Gueola, and companies with which they have been involved, have obtained financing for numerous boats. As further stated in the most recent letter, given the City's notice of default which it has sent to SYC, no lender will currently issue a commitment letter for the replacement boat for the Matthew McKinley. Still, the letters from SkipperLiner clearly indicate that SYC has the financial ability and capacity

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Angela Casagrande, Esq.
January 2, 2008
Page 2

to obtain financing to purchase the replacement boat for the Matthew McKinley, once the City withdraws its notice of default and the parties enter into amendments to the current agreements.

Finally, the City has asked for documentation to show that SYC will be able to obtain financing to fund the south barge improvements. We previously provided to the City a conditional approval of a line of credit from West America Bank. Again, a bank will not issue an unconditional commitment letter under the current circumstances that exist between the City and SYC. Still, West America Bank remains committed to SYC and has stated that it will make the necessary financing available to SYC upon the occurrence of specified conditions. Because of the holidays and vacations, West America Bank has not yet been able to provide us with a writing confirming its willingness to loan the funds. However, we expect to have such a writing soon and I will forward it to you upon my receipt. The principals of SYC are prepared to execute all required documents and provide any other materials West America Bank may request in order to obtain the financing of the south barge improvements. The principals of SYC will take all of those steps once the City and SYC have executed amendments which resolve all of the current claimed defaults by the City. Therefore, SYC has met the City's additional requirements with respect to the financing for the south barge improvements.

In sum, SYC has acted in good faith in trying to satisfy these additional requests by the City, which requests SYC is not legally obligated to satisfy. Additionally, in reliance upon discussions between the parties at the meetings at City Hall in September, SYC has continued to incur significant expense in ordering a lift for the water trolleys, making the final payment on the purchase of the water taxis and other items. SYC made these payments based upon assurances by representatives of the City that the existing agreements would be amended as we discussed at those prior meetings. Therefore, SYC will suffer significant damages if the City does not execute amendments to the existing agreements upon the terms agreed upon in September.

Please contact me as soon as possible if you have any questions regarding this letter or its attachments. In order to resolve this matter as quickly as possible, I request a meeting between representatives of both the City and SYC to discuss any remaining

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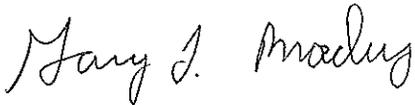
Angela Casagrande, Esq.
January 2, 2008
Page 3

issues and finalize the amendments so that we can put the amendments before the City Council for appraisal as soon as possible.

I look forward to your prompt response.

Very truly yours,

weintraub genschleachediak
LAW CORPORATION



Gary L. Bradus

GLB/dmg
Attachment

Cc: Mr. Frank Andrews (w/attachment)
Mr. David Stroud (w/attachment)
Mr. John Gueola (w/attachment)
Mr. Roy King (w/attachment)
Ms. Barbara Bonebrake (w/attachment)
Ms. Cassandra Jennings (w/attachment)
Tina Thomas, Esq. (w/attachment)

{12780/15329/GLB/1007252.DOC;}



December 28, 2007

John Gueola
c/o Pacific Avalon Yacht Charters
2901 West Coast Highway Suite 160
Newport Beach, CA 92663

Dear Mr. Gueola,

Happy New Year to you and your entire staff of Sacramento Yacht Charters, LLC. Over the years, you and Roy have purchased a number of SkipperLiner vessels from our company. Thank you for your business.

SkipperLiner is very fortunate to have the opportunity to manufacture a new vessel for Sacramento Yacht Charters. It is time to replace the Matthew McKinley. As you are aware we have lenders that can provide the necessary financing to purchase your new vessel.

Lenders will not issue a commitment letter for requested financing until a delivery date and confirmation of a dockage site is in tact. As past history dictates, Sacramento Yacht Charters should obtain the necessary financing to purchase the replacement vessel, Matthew McKinley. Please also confirm that your lease is in fact current and all parties are in compliance with such.

Happy New Year. Please keep me up to speed. Backlog is filling, we need to conclude your decision process so that we can move forward and enhance the Sacramento Water Front.

Sincerely,

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Nelson".

Daniel Nelson
President Sales Distribution & Marina Operations
bdg

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ATTORNEYS AT LAW

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BRIAN J. PLANT
OF COUNSEL

July 30, 2007

VIA HAND DELIVERY

Barbara E. Bonebrake, Director
Convention, Culture and Leisure
City of Sacramento
1030 15th Street, Suite 250
Sacramento, CA 95814-4025

**Re: Sacramento Yacht Charters Response to Demand for Correction and Notice
of Events of Default under City Agreements 2006-1306 and 2006-1307**

Dear Ms. Bonebrake:

This will acknowledge receipt of your letter of July 25, 2007, addressed to Mr. Roy King with Sacramento Yacht Charters, LLC (“SYC”) and me regarding the City of Sacramento’s allegations that SYC is in default under City Agreements 2006-1306 and 2006-1307. As set forth more fully below, SYC disputes these alleged events of default and insists that SYC is in full compliance with the terms of both of the Agreements. I will address the alleged events of default in the order you raise them in your letter.

A. City Agreement No. 2006-1307.

1. Demand for Performance of Water Taxi Service and Correction of
Condition of Water Taxis.

The City first alleges that SYC is in default because it did not provide water taxi service starting in April 2007. Pursuant to the terms of the Agreement, however, SYC was not required to commence such service as of that date. Rather, Section 7.B.2. of the Agreement requires that SYC “make good faith efforts to be in ownership and operational control of the water taxi program by July 1, 2007.” Therefore, the Agreement

Barbara E. Bonebrake, Director

July 30, 2007

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requires only that SYC make good faith efforts to operate the water taxis by July 1, 2007; not that it actually be operating them. SYC has made, and continues to make, good faith efforts to obtain ownership and operational control of the water taxis. As you are well aware, the condition of the water taxis was substantially less than as represented to SYC by the sellers and they need significant repairs. (Currently, the estimates for repair exceed \$40,000.00.) The City cannot claim that SYC is in default of the Agreement because it did not start the water taxi service in April 2007 when the Agreement gives SYC until July 1, 2007 to make good faith efforts to be in ownership and operational control of the water taxis.

SYC is continuing to work with the Sacramento Metropolitan Chamber of Commerce ("Chamber") to handle the numerous and significant repairs that are required to ensure the safe operation of the water taxis. SYC has received estimates for the repairs and will soon be commencing those repairs, once they are agreed upon by SYC and the Chamber. These repairs may ultimately need to be expanded based upon the requirements of the Coast Guard, but SYC will ensure that all required repairs are made. Ultimately, the Coast Guard makes the decision when the water taxis can be used for public water taxi service. Thus, while we are diligently pursuing options to return the taxis to service on the Sacramento River, a third party determines whether the water taxis are fit for public use.

Importantly, none of the damages to be repaired were caused by the actions of SYC. Rather, the damage to the taxis existed when the previous operator, WAVES, ceased operations. While a representative of WAVES advised representatives of both the Chamber and SYC that the only repairs needed were normal and routine maintenance, and SYC reasonably relied upon these representations from a party who was responsible for the taxis' upkeep, it is now clear that more than standard maintenance is required.

Now that it is evident that more significant repairs are required, SYC will make those repairs and work diligently to provide water taxi service as soon as possible. Pursuant to Section 24.A.3. of the Agreement, SYC may cure an alleged default within thirty days of notice of default, except that where curing the default requires activity over a period of time, and SYC has commenced performance of whatever may be required to cure the default within ten days after notice of default and continues such performance diligently to completion, the thirty day requirement shall be waived. Accordingly, SYC has commenced actions necessary to repair the water taxis and will continue to work diligently to complete those repairs and provide water taxi service pursuant to the terms of this Agreement. SYC's actions in this regard will constitute a cure of any event of default alleged.

2. Failure to Pay Minimum and Percentage Rent Payments and Submit Report Showing all Gross Receipts.

The City alleges that SYC has failed to pay rent due under the Agreement. SYC disputes that it is in default of any provisions regarding rent. SYC has made all percentage rent payments due under the original Agreement in a timely manner. Further, at a meeting in your office last month, all parties agreed that minimum rent would not be due and payable until July 2007. This agreement was reflected in an amendment to the Agreement distributed by Angela Casagrande of the City Attorney's Office showing a July 1, 2007 effective date. SYC agreed to the terms of the amendment, but the City has not distributed a clean copy for signature. While the terms of the Agreement as amended do not require SYC to pay rent until July 2007, I am informed that SYC made the minimum rent payment for the month of July 2007 under the terms of the new Agreement on or about July 1, 2007.

Further, SYC is not in default of any rent provisions with respect to operation of the Island Girl. As you know, the Island Girl is a temporary replacement for the Matthew McKinley. The Matthew McKinley was exempt under the original Agreement from payment of the percentage rent. Since the Island Girl is a replacement for the Matthew McKinley, it too is exempt from percentage rent under the original Agreement. Despite this exemption, SYC paid the five percent minimum rent for April, May and June 2007. In fact, I am informed that Ms. Stem has now advised SYC that it overpaid the City and that the City will refund to SYC the three months of the percentage rent which SYC paid for the Island Girl when it was not contractually obligated to do so.

SYC will pay all percentage rent for July 2007 and submit all required reports on or before August 20, 2007, as required by the Agreement. Accordingly, SYC is not in default of these provisions.

3. Moorage of Island Girl on the Premises.

The City alleges that SYC is in default of the Agreement because it moored the Island Girl at the Tour Boat Dock for more than one hour prior to and following a charter on certain specified dates without a Facility Use Permit from the City. SYC does not deny that it moored the Island Girl at the Tour Boat Dock on these dates. However, SYC received prior approval from Ed Astone on behalf of the City to moor the Island Girl on those dates. For each date cited in your letter, SYC provided advance notice to Mr. Astone of its desire to moor the boat at the Tour Boat Dock for an extended period. Mr. Astone in turn advised SYC that such mooring was acceptable and that he would advise SYC if any problems arose. While the Island Girl was moored at the Tour Boat Dock, no one on behalf of the City advised SYC that it was no longer permissible to moor the boat.

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In addition, the City allows other boats not meeting the definition of a western-style historic paddlewheel boat to be moored at the Tour Boat Dock without objection. The City's rules must be applied consistently to all operations. Please note that in order to effectively operate the Island Girl, SYC needs to moor at the barge for two hours prior to and two hours after each scheduled charter. SYC will need to reach a mutual understanding with the city about this issue.

In any event, I understand that SYC and the City are working on an agreement to allow the Island Girl to be moored at the south river barge and to be present for periods longer than an hour. Accordingly, SYC will cure any default occurring under these provisions.

4. Failure to Provide Statement of Cash Handling Procedures.

The City alleges that SYC was required to provide a statement of its cash handling procedures to the City and failed to do so. In fact, representatives of SYC have had discussions with Mr. Astone regarding SYC's cash handling procedures and SYC received verbal approval of those procedures. However, to be in strict compliance with the Agreement, it will also submit a written statement during the applicable cure period set forth in Section 24.A.3. of the Agreement so as to not be in default of the Agreement.

The City also alleges that SYC has not obtained or installed City-approved cash registers or accounting equipment on the Island Girl. That is not correct. The cash registers and other equipment currently located on the Island Girl were moved from the Matthew McKinley. Since the City approved the cash registers and other equipment on the Matthew McKinley, it has implicitly, if not expressly, approved the same equipment when being used on the Island Girl.

5. Defaults Regarding the Amphibious Trolleys.

The City alleges that SYC is in violation of the Agreement because the amphibious trolleys were not built specifically for, and in consultation with the City. Again, SYC disputes these allegations. Further, your letter simply states that the City was not consulted, but does not state any actual issues which the City has with the design or appearance on the amphibious trolleys. Moreover, SYC representatives consulted with City representatives with respect to the design of the amphibious trolleys. SYC shared pictures of the proposed trolleys and also discussed with City representatives the colors and names for the trolleys. At no time did anyone on behalf of the City raise concerns or issues regarding the design or appearance of the trolleys or any other issues. In fact, it is our understanding that representatives of the City have now approved of the boat design.

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In addition, despite the City's assertion to the contrary, the amphibious trolley does have a 44 passenger capacity. The trolley currently has seats for 44 people; however, in order to be compliant with the Americans with Disabilities Act as required by Section 18.A. of the Agreement, SYC is prepared to convert what are otherwise seats for four passengers to space for two passengers with disabilities. SYC does not believe that this violates the terms or spirit of the Agreement.

You also state that SYC purchased a used trolley. Again, that is not correct. While SYC purchased the trolley from an operator in Philadelphia, the trolley had never been used.

The City further alleges that the Agreement requires SYC to provide two trolleys. This is again incorrect. Section 7.C.1. of the Agreement clearly states that SYC will provide at least one amphibious trolley. SYC has met that requirement. The parties have discussed the possibility that SYC could provide another trolley and it is SYC's intention to do so at some later date. However, the Agreement does not require SYC to currently have two trolleys in operation. Exhibit G, which the City cites to, discusses schedules for two trolleys and was prepared in contemplation of the time when SYC places two trolleys in operation. This does not imply any obligation on SYC to provide two trolleys at this time.

The City next alleges that SYC is in violation of the terms of the Agreement because it operated the amphibious trolley without charging passengers. A review of the Agreement demonstrates that no provision requires SYC to charge for every ride on a trolley. Rather, common business sense dictates that SYC may conduct reasonable marketing and promotion of the amphibious trolleys. This marketing and promotion created a huge "buzz" in the community regarding the trolleys which will ultimately result in increased revenue from the operation of the trolleys. The City will, of course, benefit from such increased revenue. If the City disagrees with this conclusion, please indicate what specific section of the Agreement prohibits SYC from marketing and promoting the trolleys.

Finally, the City alleges that SYC does not have all of the necessary permits and licenses to operate the trolley. SYC has now submitted all necessary papers to the Public Utilities Commission and has obtained a license plate for the trolley from the Department of Motor Vehicles. In addition, SYC has already commenced to cure this issue with the Highway Patrol and all other applicable agencies. Therefore, SYC is not in default pursuant to Section 24.A.3. of the Agreement.

6. Failure to Obtain Entertainment Permit.

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SYC will commence to cure its failure to have an entertainment permit within ten days of your letter in accordance with the provisions of Section 24.A.3 of the Agreement.

7. Matthew McKinley Replacement.

The City has asked for assurances that SYC will replace the Matthew McKinley by March 1, 2008. The Agreement, however, does not require SYC to give such assurances. SYC has been waiting for approval from the State Lands Commission of the Agreements with the City before undertaking the large investment necessary to purchase a replacement for the Matthew McKinley. The March 1, 2008 replacement date cited by the City was based on obtaining approval from State Lands Commission within 90 days of execution of the Agreements. Such approval, however, did not occur until May 10, 2007. By separate letter, we request a copy of the State Lands Commission Lease. Due to this delay in obtaining the approval of State Lands Commission, SYC justifiably did not order a \$4.5 million replacement vessel. Having now received approval from State Lands Commission, SYC will take all steps necessary to obtain the replacement for the Matthew McKinley promptly following resolution of any disagreements between the parties with respect to this Agreement. However, SYC is unwilling to order the vessel unless and until all issues described herein are fully resolved.

B. City Agreement No. 2006-1306.

1. Failure to Provide Construction Plans to the City.

Finally, the City alleges that SYC was required to deliver complete construction plans to the City within 60 days of execution of this Agreement. SYC was justifiably waiting for approval of the State Lands Commission of this Agreement before endeavoring to develop plans for the contemplated construction. Because the consent of the State Lands Commission was delayed, SYC's efforts in this regard were also delayed. In any event, SYC has commenced to prepare and submit the construction plans and will do so in accordance with the terms of the Agreement, thus curing any alleged default.

We request that the City provide a copy of the lease with the State Lands Commission.

* * * * *

I trust that this has responded to all of the City's issues. We would be more than happy to sit down with you and other City representatives to resolve any open issues regarding the Agreements. However, it is important to reiterate that we are reluctant to make additional

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financial investment until we know that each and every issue set forth herein is resolved in a manner acceptable to the City. We cannot order the Matthew McKinley replacement, the second trolley or close the deal on the water taxis until the city gives us a clear signal to move forward. Please contact me at your convenience to set up such a meeting.

Very truly yours,



Tina A. Thomas

cc: Ray Kerridge
Cassandra Jennings
David Stroud
Gary L. Bradus, Esq.
Angela Casagrande, Esq.