

Meeting Date: 5/13/2014

Report Type: Consent

Report ID: 2014-00339

Title: Lease Agreement with the California State Lands Commission for Maintenance Dredging of Sacramento Marina and Miller Park Boat Launch Ramp

Location: Sacramento Marina and Miller Park Boat Launch, District 4

Recommendation: Pass a Resolution authorizing the City Manager to execute a ten-year agreement with the California State Lands Commission for authorization for the City to conduct maintenance dredging at the Sacramento Marina and Miller Park Boat Launch Ramp.

Contact: Keith Underwood, Interim Marina Manager, (916) 5712; Jerry Way, Director of Public Works, (916) 808-7100; Department of Public Works

Presenter: None

Department: Public Works Department

Division: Office Of The Director

Dept ID: 15001011

Attachments:

1-Description/Analysis

2-Resolution

3-State Lands Dredging Lease Agreement

City Attorney Review

Approved as to Form

Gerald Hicks

4/28/2014 3:54:57 PM

Approvals/Acknowledgements

Department Director or Designee: Jerry Way - 4/25/2014 7:00:19 AM

Description/Analysis

Issue: An agreement with the California State Lands Commission is required to perform maintenance dredging on the Sacramento River at the Sacramento Marina and Miller Park Boat Launch Ramp. Sediment buildup near the boat launch impedes launching and retrieving vessels accessing the Sacramento River at this site. The lease is for a term of ten years.

Policy Considerations: This activity is consistent with the City policy to provide ongoing maintenance of City facilities for the purpose of ensuring public safety and reasonable public access.

Economic Impacts: None.

Environmental Considerations:

California Environmental Quality Act (CEQA):The activity proposed in this report is categorically exempt from environmental review pursuant to Categorical Exemption-State class 4 and section Number 15304(g) of the California Environmental Quality Act, "maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies".

Sustainability Considerations: This action supports the City's goal of improving public access to open space, particularly along the Sacramento and American Rivers.

Committee/Commission Action: None.

Rationale for Recommendation: The Sacramento Marina and Miller Park Boat Launch Ramp experiences sediment buildup each year making it difficult, and at times impossible, to enter and exit the Sacramento Marina and to launch and retrieve vessels at the boat launch. Dredging this site is required to maintain access to the Sacramento River by both emergency and recreation vessels. The City typically dredges these locations on an annual basis.

Permission from the California State Lands Commission for dredging of the Sacramento Marina and Miller Park Boat Launch Ramp is required as the State Lands Commission has jurisdiction and management control over public lands of the State. Generally, these lands include all non-granted tidelands and submerged lands, beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits.

Dredging is also regulated by other state agencies concerned with water quality and habitat protection, restricting dredging operations to the months of August through October.

Financial Considerations: This agreement permits the City to conduct dredging at the Sacramento Marina and Miller Park Boat Launch. There are no financial considerations resulting from this agreement.

Local Business enterprise (LBE): This is not applicable as it is only approval to execute a lease with the California State Lands Commission.

RESOLUTION NO.

Adopted by the Sacramento City Council

**APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF SACRAMENTO
AND THE CALIFORNIA STATE LANDS COMMISSION FOR MAINTENANCE
DREDGING OF THE SACRAMENTO MARINA AND MILLER PARK BOAT LAUNCH
RAMP**

BACKGROUND

- A. Sediment buildup near the Sacramento Marina and the Miller Park Boat Launch makes it difficult and at times impossible to launch and retrieve vessels accessing the Sacramento River at this site.
- B. Dredging this site is required to maintain access to the Sacramento River by both emergency and recreation vessels.
- C. Permission from the California State Lands Commission for dredging of the Sacramento Marina and Miller Park Boat Launch Ramp is required as the State Lands Commission has jurisdiction and management control over public lands of the State.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

- Section 1. The City Manager or the City Manager's designee is authorized to execute a ten-year agreement with the California State Lands Commission for authorization for the City to conduct maintenance dredging at the Sacramento Marina and Miller Park Boat Launch Ramp. The lease will be effective August 3, 2014 through August 2, 2024.

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:
STATE OF CALIFORNIA
California State Lands Commission
Attn: Title Unit
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

STATE OF CALIFORNIA
OFFICIAL BUSINESS
Document entitled to free recordation
pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 009-0020--003
County: Sacramento

PRC 7775.9

LEASE NO. PRC 7775.9

This Lease consists of this summary and the following attached and incorporated parts:

- Section 1 Basic Provisions
- Section 2 Special Provisions Amending or Supplementing Section 1 or 3
- Section 3 General Provisions
- Exhibit A Land Description
- Exhibit B Site and Location Map

SECTION 1

BASIC PROVISIONS

THE STATE OF CALIFORNIA, hereinafter referred to as Lessor acting by and through the **CALIFORNIA STATE LANDS COMMISSION** (100 Howe Avenue, Suite 100-South, Sacramento, California 95825-8202), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations, and for consideration specified in this Lease, does hereby lease, demise, and let to **City of Sacramento**, hereinafter referred to as Lessee, those certain lands described in Exhibit A hereinafter referred to as Lease Premises, subject to the reservations, terms, covenants, and conditions of this Lease.

MAILING ADDRESS: 1030 – 15th Street, Suite 250
Sacramento, California 95814

LEASE TYPE: General Lease – Dredging

LAND TYPE: Ungranted sovereign lands to the City of Sacramento, minerals reserved.

LOCATION: Sacramento River at the entrance to the Sacramento Marina in Miller Park and at the Miller Park Boat Ramp, city of Sacramento, Sacramento County, as described in Exhibit A attached and by this reference made a part hereof.

LAND USE OR PURPOSE: Maintenance dredge a maximum of 13,000 cubic yards of material annually to maintain a navigable depth: 3,000 cubic yards of material at the Miller Park Boat Ramp and 10,000 cubic yards of material from the entrance to the mouth of the Sacramento Marina located in Miller Park. Dredged materials shall initially be disposed of on either one of two city-owned upland parcels, the Broadway Corporation Yard or the city's overflow lot for dewatering, and then disposed of at the U.S. Army Corps of Engineers' approved Kiefer Landfill site.

TERM: 10 years; beginning August 3, 2014; ending August 2, 2024, unless sooner terminated as provided under this Lease.

CONSIDERATION: No monetary consideration is due for the lease because there is no commercial benefit from the project and the dredged material may not be sold. Subject to modification by Lessor as specified in Paragraph 2(a)(l) of Section 3 - General Provisions.

AUTHORIZED IMPROVEMENTS: Maintenance dredge a maximum of 13,000 cubic yards of material annually to maintain a navigable depth: 3,000 cubic yards of material at the Miller Park Boat Ramp and 10,000 cubic yards of material from the entrance to the mouth of the Sacramento Marina located in Miller Park. Dredged materials shall initially be disposed of on either one of two city-owned upland parcels, the Broadway Corporation Yard or the city's overflow lot for dewatering, and then disposed of at the U.S. Army Corps of Engineers' approved Kiefer Landfill site.

N/A **EXISTING:**

N/A **TO BE CONSTRUCTED; CONSTRUCTION MUST BEGIN BY:** N/A

AND BE COMPLETED BY: N/A

LIABILITY INSURANCE: N/A

SURETY BOND OR OTHER SECURITY: N/A

**SECTION 2
SPECIAL PROVISIONS**

**~~BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED,
REVISED, OR SUPPLEMENTED AS FOLLOWS:~~**

1. Lessor and Lessee agree that the land description in Exhibit A contained herein is not to be deemed an admission by Lessor or Lessee as to the boundary between private and State-owned lands.
2. In performing the dredging, the Lessee will abide by Best Management Practices to control turbidity to protect marine resources and habitats from excessive siltation in the general vicinity of the project.
3. Lessee shall dispose of dredged material at either one of two city-owned upland parcels, the Broadway Corporation Yard or the city's overflow lot for dewatering, and then disposed of at the U.S. Army Corps of Engineers' approved Kiefer Landfill site.
4. Lessee is responsible for obtaining and complying with any and all other necessary permits or authorizations from any other public agency having jurisdiction over the dredging project.
5. Any equipment to be used on the Lease Premises is limited to that which is directly required to perform the authorized use and does not include any equipment that may cause damage to the Lease Premises.
6. All work shall be carried out in conformance with all applicable Federal, State and local regulations and requirements and current industry standards.

In the event of any conflict between the provisions of Section 2 and Section 3 of this Lease, the provisions of Section 2 shall prevail.

SECTION 3

GENERAL PROVISIONS

1. GENERAL

These provisions are applicable to all leases, permits, rights-of-way, easements, or licenses or other interests in real property conveyed by the State Lands Commission.

2. CONSIDERATION

(a) Categories

(1) Royalty

Lessee shall pay the rent or royalty as stated in this Lease to Lessor without deduction, delay, or offset, on or before the beginning date of this Lease and on or before each anniversary of its beginning date during each year of the Lease term.

(2) Non-Monetary Consideration

If the consideration to Lessor for this Lease is the public use, benefit, health, or safety, Lessor shall have the right to review such consideration at any time and set a monetary rental if the State Lands Commission, at its sole discretion, determines that such action is in the best interest of the State. Dredged material may not be sold.

(b) Penalty and Interest

Any installments of rental accruing under this Lease not paid when due shall be subject to a penalty and shall bear interest as specified in Public Resources Code Section 6224 and the Lessor's then existing administrative regulations governing penalty and interest.

3. BOUNDARIES

This Lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary claims which may be asserted presently or in the future.

4. LAND USE

(a) General

Lessee shall use the Lease Premises only for the purpose or purposes stated in this Lease and only for the operation and maintenance of the improvements expressly authorized in this Lease. Lessee shall commence use of the Lease Premises within ninety (90) days of the beginning date of this Lease or within ninety (90) days of the date set for construction to commence as set forth in this Lease, whichever is later. Lessee shall notify Lessor within ten (10) days after commencing the construction of authorized improvements and within sixty (60) days after completing them. Lessee's discontinuance of such use for a period of ninety (90) days shall be conclusively presumed to be an abandonment.

(b) Continuous Use

Lessee's use of the Lease Premises shall be continuous from commencement of the Lease until its expiration.

(c) Conservation

Lessee shall not violate any law or regulation whose purpose is to conserve resources or to protect the environment. Violation of this section shall constitute grounds for termination of the Lease. Lessor, by its executive officer, shall notify Lessee, when in his or her opinion, Lessee has violated the provisions of this section and Lessee shall respond and discontinue the conduct or remedy the condition within 30 days.

(d) Toxics

Lessee shall be fully responsible for any hazardous wastes, substances, or materials as defined under federal, State, or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported on the Lease Premises during the Lease term and shall comply with and be bound by all applicable provisions of such federal, State, or local law, regulation or ordinance dealing with such wastes, substances, or materials. Lessee shall notify Lessor and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances, or materials.

(g) Enjoyment

Subject to the provisions of paragraph 5 (a) (2) below, nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or activity constitutes a material interference with Lessee's use and enjoyment of the Lease Premises as provided under this Lease.

(h) Discrimination

Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, religion, national origin, sex, age, or handicap.

5. RESERVATIONS, ENCUMBRANCES, AND RIGHTS-OF-WAY

(a) Reservations

(1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to timber and minerals as defined under Public Resources Code Sections 6401 and 6407, as well as the right to grant leases in and over the Lease Premises for the extraction of such natural resources; however, such leasing shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.

(2) Lessor expressly reserves a right to go on the Lease Premises and all improvements for any purposes associated with this Lease or for carrying out any function required by law, or the rules, regulations, or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Lessee owned or occupied lands adjacent to the

Lease Premises for any purpose associated with this Lease.

- (3) Lessee agrees to allow the State, the State's easement holders, permittees or lessees to enter upon the Leased Lands in order to conduct authorized activities; provided that such parties shall provide Lessee with reasonable advance notice of their entry on the Leased Lands and the contemplated activities while on the Leased Lands. The State shall require such parties to indemnify, defend and hold Lessee harmless from and against any loss, cost, charge, cause of action or other liability of any kind whatsoever that arises out of such parties activities on, in or associated with the Leased Lands.
- (4) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this Lease; however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (5) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease.

(b) Encumbrances

This Lease may be subject to pre-existing contracts, leases, licenses, easements, encumbrances, and claims and is made without warranty by Lessor of title, condition, or fitness of the land for the stated or intended purpose.

6. RULES, REGULATIONS, AND TAXES

(a) Lessee shall comply with all applicable laws, regulations and rules of the United States, the State of California and counties or cities now or hereafter enacted or promulgated, including, without limitations, all applicable provisions of the Public Resources Code, the California Administrative Code, and the Statutes of California, regardless of which agency or government body may have jurisdiction with respect to enforcement. Lessee also agrees that in its employment practice hereunder, it shall not discriminate against any person because of race, color, religion, sex, ancestry, national origin physical disability, sexual orientation, AIDS or AIDS related condition(s), marital status or age.

(b) Lessee understands and agrees that a necessary condition for the granting and continued existence of this Lease is that Lessee obtains and maintains all permits or other entitlements.

(c) Lessee accepts responsibility for and agrees to pay any and all possessory interest taxes, assessments, user fees or service charges imposed on or associated with the leasehold interest, improvements or the Lease Premises, and such payment shall not reduce rental due Lessor under this Lease and Lessor shall have no liability for such payment.

(d) In accepting this Lease, Lessee understands that the interest created herein may be subject to a possessory interest tax imposed by a local or county tax assessor. Any such possessory interest tax imposed shall not reduce any royalty due hereunder and payment of the tax shall be the liability of the Lessee.

7. INDEMNITY

(a) Lessor shall not be liable and Lessee shall indemnify, hold harmless, and, at the option of Lessor, defend Lessor, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause, arising out of or connected in any way with the issuance, enjoyment or breach of this Lease or Lessee's use of the Lease Premises except for any such liability, claims, damage or injury solely caused by the negligence of Lessor, its officers, agents and employees.

(b) Lessee shall notify Lessor immediately in case of any accident, injury, or casualty on the Lease Premises.

8. INSURANCE

(a) Lessee shall obtain and maintain in full force and effect during the term of this Lease comprehensive general liability insurance and property damage insurance, with such coverage and limits as may be reasonably requested by Lessor from time to time, but in no event for less than the sum(s) specified, insuring Lessee and Lessor against any and all claims or liability arising out of the ownership, use, occupancy, condition, or maintenance of the Lease Premises and all improvements.

(b) The insurance policy or policies shall name the State of California, its officers, employees and volunteers as insureds as to the Lease Premises and shall identify the Lease by its assigned number. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current. The policy (or endorsement) must provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to Lessor. Lessor will not be responsible for any premiums or other assessments on the policy. The coverage provided by the insured (Lessee) shall be primary and non-contributing.

(c) The insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

(d) Workers Compensation: Lessee shall at all times in any and all of its operations hereunder and any works in and upon

the Leased Lands, carry full and complete workers compensation insurance covering all of its employees.

9. SURETY BOND

(a) Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants, and conditions of this Lease.

(b) Lessor may require an increase in the amount of the surety bond or other security device to cover any additionally authorized improvements, alterations or purposes and any modification of consideration.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted by Lessor, or restored by Lessee as provided elsewhere in this Lease.

(d) Said bond shall require the surety to give at least 120 days written notice of its intention to cease acting as guarantor. If a surety gives notice of its intention to cease acting as a guarantor, the Lessee shall provide to State within 30 days of such notice a replacement bond of equal value to become effective upon the expiration of the existing bond. Failure to provide such a replacement bond within the required time shall constitute a default entitling State to levy against the entire amount of the existing bond. Lessee agrees that in no event shall the amount of the bond be construed as a limitation on its liability. This requirement shall be separate from any other bonding provisions of the Public Resources Code and the regulations of the State of California or any other State, local or federal requirement.

10. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld. Employment of operators and/or subcontractors by Lessee shall not be considered a sublease or assignment of this Lease; provided, however, that Lessee shall first notify Lessor of any intended operator and/or subcontractors and obtain Lessor's approval of the use of an operator and/or subcontractor. In the event of any subcontracting, Lessee shall remain liable for the operator's and/or subcontractor's activities including the payments of royalties.

(b) The following shall be deemed to be an assignment or transfer within the meaning of this Lease:

(1) If Lessee is a corporation, any dissolution, merger, consolidation or other reorganization of Lessee or sale or other transfer of a percentage of capital stock of Lessee which results in a change of controlling persons, or the

sale or other transfer of substantially all the assets of Lessee;

(2) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

(c) If this Lease is for sovereign lands, it shall be appurtenant to adjoining littoral or riparian land and Lessee shall not transfer or assign its ownership interest or use rights in such adjoining lands separately from the leasehold rights granted herein without the prior written consent of Lessor.

(d) If Lessee desires to assign, sublet, encumber or otherwise transfer all or any portion of the Lease Premises, Lessee shall do all of the following:

(1) Give prior written notice to Lessor;

(2) Provide the name and complete business organization and operational structure of the proposed assignee, sublessee, secured third party, or other transferee; and the nature of the use of and interest in the Lease Premises proposed by the assignee, sublessee, secured third party or other transferee. If the proposed assignee, sublessee, or secured third party is a general or limited partnership, or a joint venture, provide a copy of the partnership agreement or joint venture agreement, as applicable;

(3) Provide the terms and conditions of the proposed assignment, sublease, or encumbrance or other transfer;

(4) Provide audited financial statements for the two most recently completed fiscal years of the proposed assignee, sublessee, secured party or other transferee; and provide pro forma financial statements showing the projected income, expense and financial condition resulting from use of the Lease Premises; and

(5) Provide such additional or supplemental information as Lessor may reasonably request concerning the proposed assignee, sublessee, secured party or other transferee.

Lessor will evaluate proposed assignees, sublessees, secured third parties and other transferees and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability, their business experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors.

(e) Lessor shall have a reasonable period of time from the receipt of all documents and other information required under this provision to grant or deny its approval of the proposed party.

(f) Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions found in a separately drafted standard form (Agreement and Consent to Encumbrancing of Lease) available from Lessor upon request.

(g) Upon approval of an assignment by State the covenants and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of all of the parties hereto; and all parties hereto shall be jointly and severally liable hereunder.

(h) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of assignment and not associated with Lessee's use, possession or occupation of or activities on the Lease Premises; except as to any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises.

(i) If the Lessee files a petition or an order for relief is entered against Lessee, under Chapters 7,9,11 or 13 of the Bankruptcy Code (11 USC Sect. 101, et seq.) then the trustee or debtor-in-possession must elect to assume or reject this Lease within sixty (60) days after filing of the petition or appointment of the trustee, or the Lease shall be deemed to have been rejected, and Lessor shall be entitled to immediate possession of the Lease Premises. No assumption or assignment of this Lease shall be effective unless it is in writing and unless the trustee or debtor-in-possession has cured all defaults under this Lease (monetary and non-monetary) or has provided Lessor with adequate assurances (1) that within ten (10) days from the date of such assumption or assignment, all monetary defaults under this Lease will be cured; and (2) that within thirty (30) days from the date of such assumption, all non-monetary defaults under this Lease will be cured; and (3) that all provisions of this Lease will be satisfactorily performed in the future.

11. DEFAULT AND REMEDIES

(a) Default

The occurrence of any one or more of the following events shall immediately and without further notice constitute a default or breach of the Lease by Lessee:

- (1) Lessee's failure to make any payment of rental, royalty, or other consideration as required under this Lease;
- (2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease;
- (3) Lessee's vacation or abandonment of the Lease Premises (including the covenant for continuous use as provided for in paragraph 4) during the Lease term;

- (4) Lessee's failure to obtain and maintain all necessary governmental permits or other entitlements;
- (5) Lessee's failure to comply with all applicable provisions of federal, state or local law, regulation or ordinance dealing with hazardous waste, substances or materials as defined under such law;
- (6) Lessee's Failure to commence to construct and to complete construction of the improvements authorized by this Lease within the time limits specified in this Lease; and/or
- (7) Failure of the Lessee to comply with any provisions of this Lease or with the laws, regulations, or rules applicable thereto shall immediately and without further notice constitute a default or breach of the Lease by Lessee.

(b) Lessee's failure to observe or perform any other term, covenant, or condition of this Lease or when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach under this paragraph is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

(c) Remedies

In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may at any time and with or without notice do any one or more of the following:

- (1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises;
- (2) Terminate this Lease and Lessee's right of possession of the Lease Premises. Such termination shall be effective upon Lessor's giving written notice and upon receipt of such notice, Lessee shall immediately surrender possession of the Lease Premises to Lessor;
- (3) Maintain this Lease in full force and effect and recover any rental, royalty, or other consideration as it becomes due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises; and/or
- (4) Exercise any other right or remedy which Lessor may have at law or equity.

12. INDEPENDENT SITE ASSESSMENT

Lessor may at any time during the Lease term require Lessee to conduct at its own expense and by a contractor approved by Lessor an independent environmental site assessment or

inspection for the presence or suspected presence of hazardous wastes, substances or materials as defined under federal, State or local law, regulation or ordinance manufactured, generated, used, placed, disposed, stored, or transported on the Lease Premises during the term of the Lease. Lessee shall provide the results of the assessment or inspection to Lessor and the appropriate governmental response agency(ies) and shall further be responsible for removing or taking other appropriate remedial action regarding such wastes, substances or materials in accordance with applicable federal, state or local law regulation or ordinance.

13. QUITCLAIM

Lessee shall, within ninety (90) days of the expiration or sooner termination of this Lease, execute and deliver to Lessor in a form provided by Lessor a good and sufficient release of all rights under this Lease. Should Lessee fail or refuse to deliver such a release, a written notice by Lessor reciting such failure or refusal shall, from the date of its recordation be conclusive evidence against Lessee of the termination of this Lease and all other claimants.

14. HOLDING-OVER

After expiration or earlier termination of lease, there is no holdover provision. Activities on premises shall constitute trespass without the express consent of the Lessor.

15. ADDITIONAL PROVISIONS

(a) Waiver

- (1) No term, covenant, or condition of this Lease and no default or breach of any such term, covenant or condition shall be deemed to have been waived, by Lessor's acceptance of a late or nonconforming performance or otherwise, unless such a waiver is expressly acknowledged by Lessor in writing.
- (2) Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition of any other default or breach of any term, covenant or condition of this Lease.

(b) Time

Time is of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

(c) Notice

All notices required to be given under this Lease shall be given in writing, sent by U.S. Mail with postage prepaid, to Lessor at the offices of the State Lands Commission and the Lessee at the address specified in this Lease. Lessee shall give Lessor notice of any change in its name or address.

(d) Consent

Where Lessor's consent is required under this Lease its consent for one transaction or event shall not be deemed to be a consent to any subsequent occurrence of the same or any other transaction or event.

(e) Changes

This Lease may be terminated and its term, covenants, and conditions amended, revised, or supplemented only by mutual written agreement of the parties.

(f) Successors

The terms, covenants, and conditions of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, successors, and assigns of the respective parties.

(g) Joint and Several Obligation

If more than one Lessee is a party to this Lease, the obligations of the Lessees shall be joint and several.

(h) Captions

The captions of this Lease are not controlling and shall have no effect upon its construction or interpretation.

(i) Severability

If any term, covenant or condition of this Lease is determined by a court of competent jurisdiction to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms, covenants and conditions.

(j) Record Keeping and Audits

(1) Lessee shall prepare and maintain accurate records of its operations under this Lease. On or before the 15th day of the month following the lease year, Lessee shall provide to State a detailed statement (hereinafter "Dredging Report") of the amount of Dredged Materials and copies of reports or contracts with the dredging operator substantiating the volume of Dredged Materials and placement of Dredged Materials.

(2) At the request of the State, the Lessee shall provide additional reasonable information to State to assist it in interpreting and evaluating the contents of Lessee's Dredging Report.

(3) All Dredging Reports and royalty statements shall be subject to audit by State. Upon reasonable advance notice to the Lessee from State, Lessee shall make available to State, during business hours, Lessee's books, records, calculations and other materials that are directly related to the Leased Lands and any other land joined with the Leased Lands under Lessee's plan of operation and the contents of its Dredging Reports.

(4) Lessee waives any rights or objections it may have and consents to the examination, inspection and audit of the books and records of Lessee and any other party associated with the dredging activities.

(5) Lessee shall, within 30 days of the State's request, provide copies of all data arising from Lessee's operation on the Leased Lands including, but not limited to, surveys of the Leased Lands conducted by or for

Lease No. PRC 7775.9

This Lease shall become effective only when approved by and executed on behalf of the State Lands Commission of the State of California and a duly executed copy has been delivered to Lessee. The submission of this Lease by Lessor, its agent or representative for examination by Lessee does not constitute an option or offer to lease the Lease Premises upon the terms and conditions contained herein, or a reservation of the Lease Premises in favor of Lessee. Lessee's submission of an executed copy of this Lease to Lessor shall constitute an offer to Lessor to lease the Lease Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

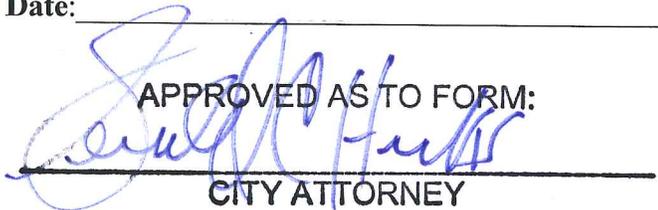
LESSEE(S):

CITY OF SACRAMENTO

By: _____

Title: _____

Date: _____


APPROVED AS TO FORM:
CITY ATTORNEY

ACKNOWLEDGEMENT

LESSOR:

STATE OF CALIFORNIA
STATE LANDS COMMISSION

By: _____

Title: _____

Date: _____

This Lease was authorized by the
California State Lands Commission on

(Month Day Year)

EXHIBIT A

PRC 7775.9

LAND DESCRIPTION

Two (2) parcels of tide and submerged land, situate in the bed of the Sacramento River, lying in and adjacent to those lands granted to the City of Sacramento pursuant to Chapter 1266, Statutes of 1970, and shown on that record of survey map titled "Portion of Projected Section 11 – T.8N., R.4E. M.D.B. & M." dated November 1972 and filed in Book 30 of Surveys, Page 10, County of Sacramento, State of California and more particularly described as follows:

Parcel 1 – Mouth of Sacramento Marina

COMMENCING at the southeast corner of "Parcel 2" as shown on said record of survey; thence along the easterly line of said parcel North 18°37'00" West 375.00 feet; thence leaving said line North 31°06'30" West 423.32 feet to the POINT OF BEGINNING; thence South 69°13'34" West 231.09 feet; thence North 17°40'44" West 118.72 feet; thence North 45°36'26" East 175.35 feet; thence South 39°30'09" East 199.36 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Sacramento River.

ALSO EXCEPTING THEREFROM any portion lying within said lands granted to the City of Sacramento pursuant Chapter 1266, Statutes of 1970.

Parcel 2 – Miller Park Boat Launch Ramp

COMMENCING at the southeast corner of "Parcel 2" as shown on said record of survey; thence along the easterly line of said parcel North 18°37'00" West 375.00 feet; thence leaving said line North 74°27'58" West 287.47 feet to the POINT OF BEGINNING; thence South 50°14'35" West 90.00 feet; thence North 39°45'25" West 150.00 feet; thence North 50°14'35" East 90.00 feet; thence South 39°45'25" East 150.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Sacramento River.

ALSO EXCEPTING THEREFROM any portion lying within said lands granted to the City of Sacramento pursuant Chapter 1266, Statutes of 1970.

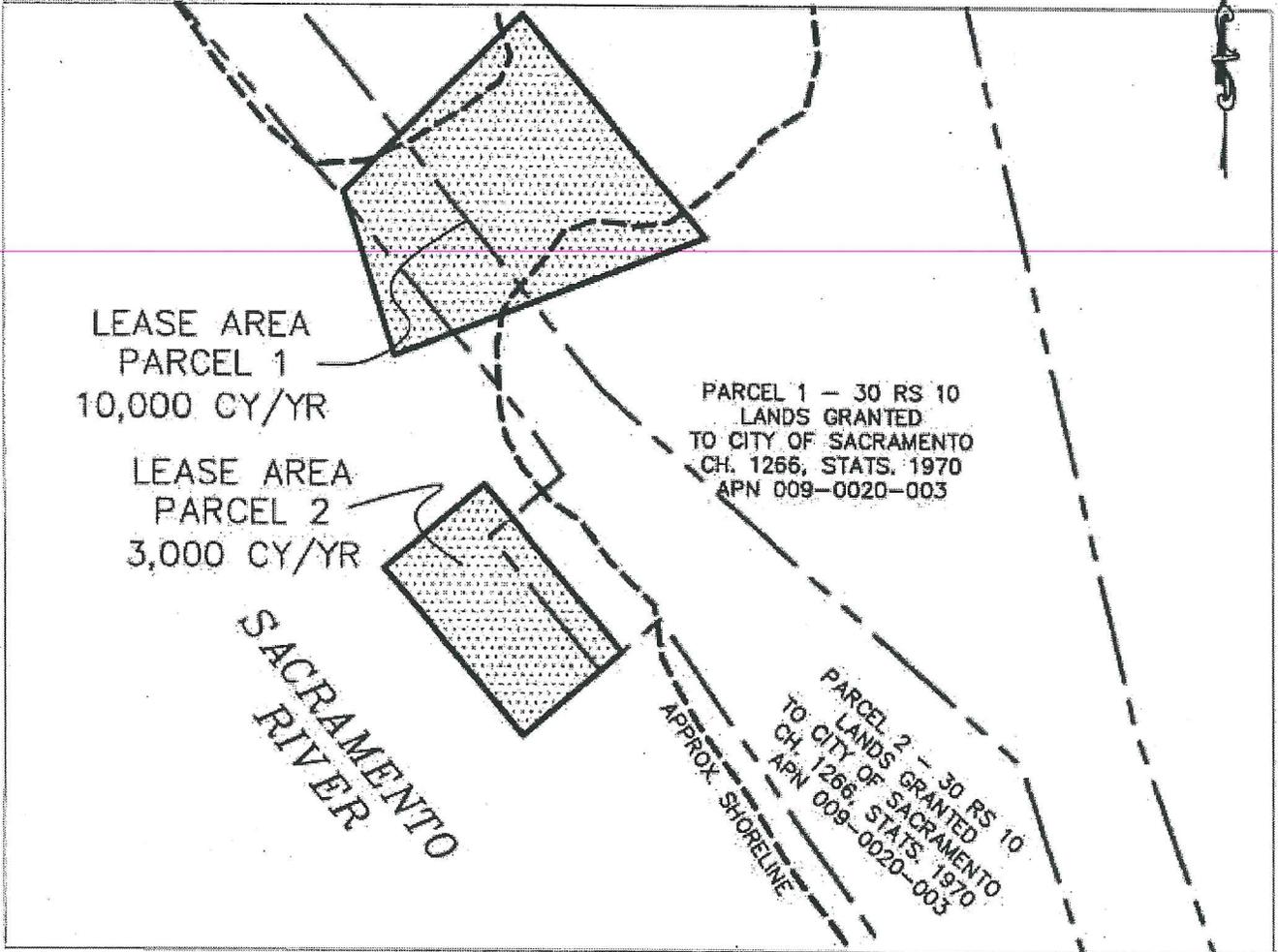
END OF DESCRIPTION

PREPARED 3/17/14 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

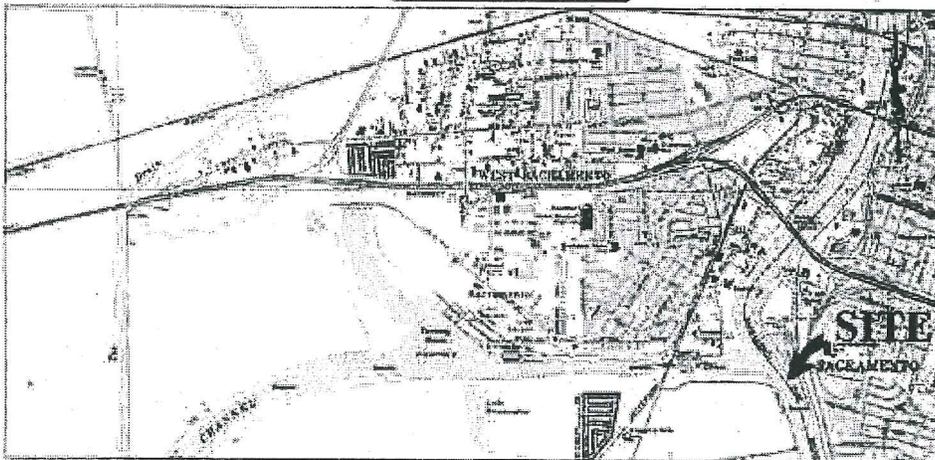
SITE



2710 Ramp Way, Sacramento - Sacramento Marina, Miller Park

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7775.9
 CITY OF SACRAMENTO
 APN 009-0020-003
 GENERAL LEASE -
 DREDGING
 SACRAMENTO COUNTY



KJF 404/14

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.