

**CALENDAR ITEM
C22**

A 9
S 6

08/20/10
PRC 7001.1
D. Jones

**CONSIDER OF RESCISSION OF COMMISSION ACTION, APPROVAL OF
SUBLEASE, AND APPROVAL OF EXTENSIONS TO THE SUBLEASE**

LESSEE/SUBLESSOR:

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

SUBLESSEE:

Waterfront Management, Inc.
18928 CR 142
Flint, Texas 75762-6602

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, between the I Street Bridge and the Tower Bridge, city of Sacramento, Sacramento County,

AUTHORIZED USE:

LEASE: Use and maintenance of docks, walkways, access ramps, floating vessels, and any other structure necessary or appurtenant to the development of the Lease Premises and for the mooring of vessels.

SUBLEASE: Operating and conducting a full service restaurant and cocktail lounge together with ancillary uses and for no other purposes.

TERM:

LEASE: 49 years, beginning July 1, 1986 .

SUBLEASE: 11 years, beginning July 27, 1993 with the option to extend the term of the Sublease for up to three additional five-year terms under the terms and conditions contained within the Sublease.

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CONSIDERATION:

LEASE: Commencing with years six through 25, the State shall receive 20 percent of the gross annual rent the city of Sacramento (City) receives from the sublessees.

Annual rent for the term of the lease for years 26 through 49 is subject to adjustment as agreed to between the Commission and the City.

SUBLEASE: A guaranteed minimum monthly fee or a percentage of gross receipts, whichever is greater: 3.5 percent of gross receipts from any activities for the first three separate years of the contract and 4 percent of gross receipts thereafter. If gross sales exceed \$200,000 during any calendar month, sublessee shall pay 5 percent of the overage of those sales over \$200,000 for that month. If gross sales exceed \$250,000 during any calendar month, sublessee shall pay 5.5 percent of the overage of those sales over \$250,000 for that month.

OTHER PERTINENT INFORMATION:

1. On July 24, 1986, the Commission approved the issuance of a Master Lease (Lease) to the City covering a portion of the Sacramento River in "Old Sacramento" between the Tower Bridge and the I Street Bridge and as depicted on the attached Exhibit A. Since the Lease was issued, it has been amended periodically to adjust the date when annual reports and rent are due and to amend the lease expiration date to June 30, 2035.
2. In 1993, the staff of the City discussed with Commission staff a proposal for a restaurant and cocktail lounge on the Lease Premises for a facility to be named the "Cadillac Bar". Based on these discussions, Commission staff obtained Commission authorization on April 28, 1993, for approval of a Sublease between the City and Cadillac Bar, Inc. for the operation of a restaurant and cocktail lounge. However, following the Commission's action, the City and the proposed restaurant's representatives concluded the "Cadillac Bar" format was too limiting for a restaurant to fully serve the diverse clientele of Old Sacramento. The City, therefore, entered into a Sublease with Waterfront Management, Inc. commencing July 27, 1993, for an 11-year period to operate a restaurant and cocktail lounge called the Rio City Cafe. The sublease allows for three five-year renewal options. The Commission never rescinded its action approving the Sublease between the City and Cadillac Bar, Inc. approved April 28, 1993, and never approved the Sublease between the City and Waterfront

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Management, Inc. (Sublease). Cadillac Bar, Inc. has never operated the restaurant and cocktail lounge on the Lease Premises. The Rio City Café has operated the restaurant continuously since the Sublease was approved in 1993.

3. The original term of the Sublease between the City and Waterfront Management, Inc. expired on July 26, 2004. In 2004, the City authorized a five-year extension from July 27, 2004 to July 26, 2009; in 2009, the City authorized the second five-year extension from July 27, 2009 to July 26, 2014.
4. Commission staff proposes to rescind that portion of Calendar Item 11 dated April 28, 1993 which approved, by endorsement, the Sublease between the City and Cadillac Bar, Inc. and approve, by endorsement, the Sublease between the City and Waterfront Management, Inc., effective April 28, 1993. Commission staff is also proposing to approve the first extension by the City of the Sublease for the period July 27, 2004, to July 26, 2009, and the second extension by the City of the Sublease for the period July 27, 2009, to July 26, 2014.
5. Pursuant to the Commission's delegation of authority and State CEQA Guidelines [Title 14, California Code of Regulations, section 15060 (c)(3)], the staff has determined that these activities are not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

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RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

Find that the activity is not subject to the requirements of the CEQA pursuant to Title 14, California Code of Regulations, Section 15060(c)(3) because the activity is not a project as defined by Public Resources Code Section 21065 and Title 14, California Code of Regulations, Section 15378.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code Sections 6370, et seq.

AUTHORIZATION:

1. Rescind that portion of Calendar Item 11 approved by the Commission at its April 28, 1993, meeting which approved, by endorsement, the Sublease between the city of Sacramento and Cadillac Bar, Inc.
2. Authorize, by endorsement, a Sublease between the city of Sacramento and Waterfront Management, Inc. of a portion of the Lease No. PRC 7001.1, more particularly shown on Exhibit A attached and by this reference made a part hereof, effective April 28, 1993, for a term of 11 years, commencing July 27, 1993, with three five-year extensions, for the operation of a full service restaurant and cocktail lounge.
3. Authorize, by endorsement, approval of the extensions of the Sublease between the city of Sacramento and Waterfront Management, Inc. of a portion of Master Lease PRC 7001.1, for the first Sublease extension for the period July 27, 2004 to July 26, 2009, and the second Sublease extension for the period July 27, 2009, to July 26, 2014.