

**CALENDAR ITEM
C11**

A 39
S 79

02/08/11
WP 8876.1
K. Foster

**AUTHORIZATION FOR STAFF-APPROVAL
OF A SELF-INSURANCE PROGRAM FOR A
GENERAL LEASE - COMMERCIAL USE**

LESSEE:

San Diego Unified Port District
3165 Pacific Highway
San Diego, CA 92112

SUBLESSEE:

Sunroad Asset Management, Inc.
4445 Eastgate Mall Suite 400
San Diego, CA 92121

AREA, LAND TYPE, AND LOCATION:

0.30 acre, more or less, of sovereign land in San Diego Bay, adjacent to Harbor Island, San Diego County.

AUTHORIZED USE:

Renovation, use, and maintenance of a barge to be used as a floating restaurant and event facility.

LEASE TERM:

40 years, beginning June 28, 2010.

CONSIDERATION:

Year One: \$3,000 per year; **Years Two and Three:** A minimum of \$6,000 per year against a percentage of Lessee's gross income from gross sales revenues generated by the sublease on the Leased Premises in excess of the minimum annual rental; **Year Four and forward:** a minimum of \$12,009 per year against a percentage of Lessee's gross income from revenues generated by the sublease on the Leased Premises in excess of the minimum annual rental, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease.

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SPECIFIC LEASE PROVISIONS:

Insurance:

Lessee: Combined single limit liability insurance coverage in the amount of not less than \$1,000,000. Applicant may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the Lease.

Sublessee: Combined single limit Commercial General Liability insurance coverage in the amount of no less than \$2,000,000 with a general aggregate coverage of \$4,000,000; Liquor Liability insurance coverage in the amount of no less than \$2,000,000.

OTHER PERTINENT INFORMATION:

1. The San Diego Unified Port District (Lessee) owns and manages the sovereign lands adjoining the lease premises, as Trustee, pursuant to Chapter 67, Statutes of 1962, 1st Extraordinary Session, as amended.
2. On June 28, 2010, the Commission authorized the issuance of Lease No. PRC 8876.1 to the Lessee and a Sublease to Sunroad Asset Management Inc. (Sublessee) for a 40-year term beginning June 28, 2010, along with insurance requirements for both the Lessee and Sublessee, as discussed above.
3. The Lease requires the Lessee to provide proof of combined single limit liability insurance coverage in an amount of not less than \$1,000,000, which may be satisfied in whole or in part by the maintenance of a staff-approved self-insurance program, as outlined in the Lease. The Lessee has a self-insurance program and has requested approval for its use. However, in requesting authorization for the issuance of the Lease, the approval of the sublease, and the insurance requirements in the prior Commission action, staff inadvertently omitted authorization language for a staff-approved self-insurance program for the Lessee. Staff is now requesting Commission authorization for staff-approval of a self-insurance program.
4. Pursuant to the Commission's delegation of authority and State CEQA Guidelines [Title 14, California Code of Regulations, section 15060 (c)(3)], staff has determined this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

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

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

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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

SIGNIFICANT LANDS INVENTORY FINDING:

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

AUTHORIZATION:

Authorize Lessee to provide combined single limit liability insurance coverage in the amount of not less than \$1,000,000; Lessee may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the Lease; all other terms and conditions of the Lease to remain in full force and effect.