

**CALENDAR ITEM
C21**

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04/09/09
PRC 7001.1
D. Jones

**AUTHORIZATION TO WAIVE THE LATE PAYMENT PENALTY AND
REDUCE THE INTEREST FOR MASTER LEASE NO. PRC 7001.1**

LESSEE:

City of Sacramento
922 Second Street, Suite 300
Sacramento, CA 95814

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:

Continued use and maintenance of docks, walkways, access ramps, floating vessels and any other structures necessary or appurtenant to the development of the Lease Premises and for the mooring of vessels.

LEASE TERM:

49 years, beginning July 1, 1986.

CONSIDERATION:

Commencing with years six through 25, the State shall receive 20% of the gross annual rent the City receives from its sublessees.

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

OTHER PERTINENT INFORMATION:

1. On July 24, 1986, the Commission approved the issuance of a Master Lease to the city of Sacramento (City) covering a portion of the Sacramento River in "Old Sacramento" between the Tower Bridge and the I Street Bridge, city of Sacramento. On April 28, 1993, the Commission approved an amendment to the Master Lease to change the date whereby annual reports and annual rent must be submitted by the Lessee and each Sublessee to the Commission from the 25th day of the month following the

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end of the year to September 1 of each year; June 30 is the end of the fiscal year for the Master Lease.

On April 20, 2000, the Commission amended the Master Lease to change the Lease expiration date to June 30, 2035, to comply with the Commission's regulations which allow only 49-year leases.

2. The Master Lease requires that the City pay the Commission 20% of the gross annual rent it receives from the Subleases within the Lease Premises. The annual rental for the lease year July 1, 2007 through June 30, 2008, in the amount of \$90,337.52 was submitted on October 22, 2008, instead of the due date of September 1, 2008. Thus, the Commission assessed the City a late payment penalty of \$4,516.88 and interest of \$2,272.05 for a total of \$6,788.93. Pursuant to Commission regulations, penalties and interest on late payments are to be punitive and are set at 5% penalty and 18% annualized interest.
3. The City immediately contacted staff and requested that because of extraordinary circumstances resulting from the City's implementation of a new financial, human resources, and accounting data processing system, as well as personnel changes, the City was unable to coordinate payment of the annual percentage rent for its Lease by the September 1, 2008 deadline. The City has asked the Commission to either waive the combined late payment penalty and interest charges of \$6,788.93 or reduce the penalty and interest. Due to these extraordinary circumstances, and because the City has been current in paying its annual gross rental in the past, staff is recommending that the penalty be waived and the interest be reduced to 5% annual rate, equivalent to the Pooled Money Investment Fund. This reduces the amount the City owes the Commission to \$631.13. Currently, all expected rentals have been paid.

Authority: Title 2, California Code of Regulations, section 1911.

4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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

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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 the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site Map.

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:

WAIVE THE LATE PAYMENT PENALTY IN THE AMOUNT OF \$4,516.88 AND REDUCE THE INTEREST CHARGES WHICH WERE ASSESSED ON THE 2007-2008 GROSS ANNUAL RENTAL TO \$631.13 (INVOICE NO. 9810) FOR LEASE PRC 7001.1, EFFECTIVE APRIL 9, 2009.