



# REPORT TO THE CITY COUNCIL

## City of Sacramento

915 I Street, Sacramento, CA 95814-2604  
[www. CityofSacramento.org](http://www.CityofSacramento.org)

Consent  
 June 12, 2007

### Honorable Mayor and Members of the City Council

**Title:** Establish Capital Improvement Projects for Repairs and Improvements of Public Areas Around Joe's Crabshack Restaurant and the Old Sacramento Historic District.

**Location/Council District:** 1210 Front Street, Council District 1

**Recommendation:** Adopt a **Resolution**, (1) establishing capital improvement projects (CIP) for repairs and improvements of public areas around Joe's Crabshack Restaurant (CF91) and the Old Sacramento Historic District (CF96); (2) authorizing the net percentage rent received from Joe's Crabshack restaurant in September 2006 in the amount of \$103,139 to be used for the Old Sacramento Lighting Project (KC96); and 3) authorizing the payments of the net percentage rents from Joe's Crabshack Restaurant for FY2006/07 and FY2007/08 to be allocated to CF91 and CF96, and the corresponding revenue and expenditure budgets established, as reflected in Exhibit B.

**Contact:** Nicole York-Johnson, Economic Development, 808-8646; Barbara Bonebrake, Convention, Culture & Leisure, 808-7733

**Presenters:** None

**Department:** Economic Development

**Division:** Downtown Development

**Organization No:** 4451

### Description/Analysis

**Issue:** Sublease agreement #2001-067 between the City of Sacramento and Crab Addison, Inc., dba, Joe's Crabshack, provides that the City, at its sole expense, shall perform structural repairs and major City improvements in all public areas in and around Joe's Crabshack Restaurant. This includes steel pilings in the riverbed of the Sacramento River and the wood decking on which the restaurant is located. This report recommends that the "net percentage rent" due to the City be deposited into CIP accounts for the purposes of funding structural improvements or repairs, and significant enhancements in Old Sacramento.



CF91 will be managed by the Department of Economic Development to provide funding for structural improvements or repairs in those areas identified in the Public Improvement Development Agreement (PIDA) for which the City is responsible.

CF96 will be managed by the Department of Convention, Culture and Leisure (CCL) for enhancements within the Old Sacramento Historic District. CCL will also manage the lease agreement ensuring that the restaurant and all public areas meet the requirements of the lease agreement and public safety.

**Policy Considerations:** The action requested herein is consistent with the City's Strategic Plan goal to achieve sustainability and livability.

**Environmental Considerations:** Establishment of a CIP account does not constitute a project, therefore, it is exempt from CEQA under Section 15061(b)(3) of the CEQA guidelines. Future projects as identified shall be subject to CEQA guidelines.

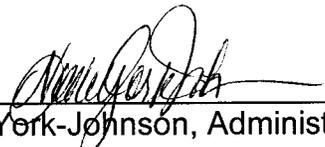
**Rationale for Recommendation:** Joe's Crabshack has been in operation for three years, and it is anticipated that the public areas for which the City is responsible will require funding to accomplish major improvements and repairs.

**Financial Considerations:** Annually, the City shall receive 2.5% of the restaurant's gross sales (net percentage rent) in excess of \$3 million (see schedule of net percentage rents at Exhibit A). The initial payment of the percentage rent of \$103,139 will be used to provide funding for the Old Sacramento Lighting Project, KC96. Future year's net percentage rent revenue beginning with FY07, less twenty percent for annual State Lands fees will be distributed as follows:

- 20% for the annual State Lands fee
- CF91 will receive one-third
- CF96 will receive two-thirds

See schedule of net percentage rent allocation at Exhibit B.

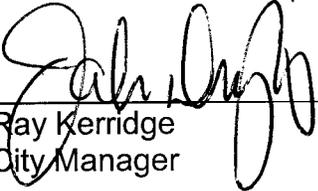
**Emerging Small Business Development (ESBD):** None.

Respectfully Submitted by:   
Nicole York-Johnson, Administrative Officer  
Economic Development

Approved by:   
David Spaur, Director  
Economic Development

Approved by:   
Barbara E. Bonebrake, Director  
Convention, Culture and Leisure

Recommendation Approved:

  
Ray Kerridge  
City Manager

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## **RESOLUTION NO.**

Adopted by the Sacramento City Council

### **ESTABLISHING CAPITAL IMPROVEMENT PROJECTS FOR IMPROVEMENTS AND REPAIRS OF PUBLIC AREAS IN AND AROUND JOE'S CRABSHACK RESTAURANT (CF91) AND THE OLD SACRAMENTO HISTORIC DISTRICT (CF96)**

#### **BACKGROUND**

- A. On August 14, 2001, the City entered into Sublease City Agreement #2001-067 (Agreement) with Crab Addison, Inc., dba, Joe's Crabshack.
- B. Section 5.02 of Agreement provides that the City, at its sole expense, shall perform structural repairs and major City improvements in all public areas in and around Joe's Crabshack Restaurant.
- C. Section 3.03 of Agreement stipulates that the lessee shall pay the City 2.5% of annual gross sales in excess of \$3 million ("net percentage rent") during years 3-5 of the sublease.

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

- Section 1. Capital improvement projects for repair and improvements at Joe's Crabshack Restaurant (CF91) and the Old Sacramento Historic District (CF96) are established.
- Section 2. The net percentage rent received from Joe's Crabshack restaurant in September 2006 in the amount of \$103,139 is to be used for the Old Sacramento Lighting Project (KC96).
- Section 3. The annual payments of the net percentage rents from Joe's Crabshack are to be allocated to CF91 and CF96 for FY2006/07 and FY2007/08, and the corresponding revenue and expenditure budget established for these payments, as shown in Exhibit B.

#### Table of Contents:

- Exhibit A - Net Percentage Rent Schedule
- Exhibit B - Allocation of Net Percentage Rent Schedule

**Exhibit A**

**NET PERCENTAGE RENT SCHEDULE\***

Joe's Crabshack Net Percentage Rent Schedule	
Sublease Years 1 – 2	No Net Percentage Rent shall be due
Sublease Years 3 – 5 (FY06-FY08) ***	2.5% of annual Gross Sales in excess of \$3mil
Sublease Years 6 – 10	2.5% of annual Gross Sales in excess of \$3.25mil
Sublease Years 11 -15	2.5% of annual Gross Sales in excess of \$3.50mil
Sublease Years 16 - 20	2.5% of annual Gross Sales in excess of \$3.75mil
Sublease Years 21- 25	2.5% of annual Gross Sales in excess of \$4mil
Sublease Years 26 through termination date (excluding option periods)	2.5% of annual Gross Sales in excess of \$4.25mil

\* Net Percentage Rent is defined as the rent that will be paid to the City based on a percentage of gross sales in excess of the amounts established above.

\*\*\* This report covers the period for the Sublease Years 3-5. Staff will come back with a report on recommended programming for future sublease years.

**Exhibit B**

**NET PERCENTAGE RENT\* ALLOCATION**

<b>FY05/06 Net Percentage Rent Received</b>	
Net Percentage Rent of \$103,139 to be applied to CIP# KC96 Old Sacramento Lighting Project (Revenue Budget to be established in Economic Development Operating Budget; Expenditure Budget to be established in CIP KC96)	
<b>FY2006/07 and FY2007/08 Net Percentage Rents</b>	
Net Percentage Rent (NPR) due to City (Revenue Budget to be established in Economic Development Operating Budget)	
<ul style="list-style-type: none"> <li>• Deduction of 20% of the NPR for State Lands Fee (Expenditure Budget to be established in Economic Development Operating Budget)</li> <li>• Balance of NPR allocated as follows:</li> </ul>	
1/3 to CIP# CF91 (Expenditure Budget established in CIP)	
2/3 to CIP# CF96 (Expenditure Budget established in CIP)	

\*\* Net Percentage Rent defined in Exhibit A.

