

PLACER COUNTY
SUCCESSOR AGENCY
MEMORANDUM

TO: Honorable Members of the Placer County Successor Agency
FROM: Rae James, Director
DATE: November 20, 2012
SUBJECT: Authorization for the County Executive Officer, or his designee, to Execute an Amendment to the Tahoe City Jackpine Parking Lot Lease to Reflect the Change in Entities and to Modify the Rent Payable to the Landlord from \$1,977,000 to \$1,620,276, a Savings of \$357,624

ACTION REQUESTED

Authorize the County Executive Officer, or his designee, to execute an amendment to the Tahoe City Jackpine Ground Lease to reflect the change in entities and to modify the rent payable to the landlord from \$1,977,000 to \$1,620,276, a savings of \$357,624.

BACKGROUND

The former Redevelopment Agency leased property (Assessor's Parcel No. 094-10-023) in Tahoe City for purposes of a much needed public parking lot, called the Jackpine Parking Lot. The parking lot is just north of the Customs House which is in use by the County for its planning and general government offices as well providing for private tenants. The location of the Jackpine Parking Lot also provides needed parking spaces for public visitors, employees and nearby businesses. Upon implementation of the Dissolution Act, on February 1, 2012, the Successor Agency (Agency) became the successor in interest to this asset.

The lease executed October 24, 2003 with Hermi Jacobs Cassady, Trustee of the Hermi Jacobs Cassady Revocable Trust of 1992 is currently on the Recognized Obligation Payment Schedule (ROPS) and approved by the Department of Finance as an enforceable obligation for the full term of the lease, ending 2036.

The Agency was directed by the Oversight Board to seek new lease terms that would reduce liabilities and increase net revenues to the taxing entities. On August 4, 2012, the Placer County Oversight Board authorized the Agency to initiate negotiations for a revised lease and to execute said lease as long as the term of the lease did not extend past its current time of June 30, 2036 and did not cost any more than the current lease amount.

As a result staff negotiated amended terms which clarified language in the lease, recognized the change in entities as a result of the Dissolution Act which eliminated the former Redevelopment Agency, and modified the full amount of rent owing from \$1,977,000 to \$1,620,276 for a savings to the Agency of \$ 357,624 over the initial term of the lease.

ENVIRONMENTAL STATUS

The proposed resolution and execution of the amended Jackpine Parking Lot Lease Agreement are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines §15378(b)(5).

FISCAL IMPACT

The proposed execution of an amendment to the Jackpine Parking Lot Lease Agreement will result in a modest savings over a period of twenty-four years. The lease is an enforceable obligation on the current ROPS.

Attachments: Resolution
Lease Amendment

Before the Placer County Successor Agency, State of California

In the matter of:

Authorizing the County Executive Officer or designee to execute an amendment to the Ground Lease (Jackpine) dated October 24, 2003 to clarify language, reflect the change in entities and to modify the rent payable to the landlord from \$1,977,000 to \$1,620,276, a savings of \$357,624.

Resol. No:

Ord. No:

First Reading:

The following Resolution was duly passed by the Successor Agency of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:
Clerk of said Board

Chair, Agency Board

WHEREAS, pursuant to Resolution No. 2012-025, adopted by the Placer County Board of Supervisors on January 24, 2012, the County of Placer agreed to serve as the Successor Agency to the Placer County Redevelopment Agency (Successor Agency) commencing upon dissolution of the Redevelopment Agency on February 1, 2012 pursuant to Assembly Bill 1x 26 (Dissolution Act).

WHEREAS, in accordance with the Dissolution Act, the Successor Agency has prepared, and this Oversight Board has approved, Recognized Obligation Payment Schedules (ROPS) setting

forth the schedule of the Successor Agency's enforceable obligations, including among others, the obligation to make rent payments pursuant to that certain Ground Lease (Jackpine) dated as of October 24, 2003 executed by and between the Redevelopment Agency and Hermi Jacobs Cassady, Trustee of the Hermi Jacobs Cassady Revocable Trust of 1992 (Ground Lease);

WHEREAS, the land leased pursuant to the Ground Lease (Assessor's Parcel No. 094-110-023) is used to provide essential public parking; and

WHEREAS, on August 14, 2012 the Placer County Oversight Board pursuant to Health and Safety Code Section 34181(e) directed the Placer County Successor Agency to negotiate and execute an amendment to the Jackpine Parking Lot Lease Agreement, provided that (i) the term of the Ground Lease is not extended beyond the expiration date currently set forth in the Ground Lease as such may be extended pursuant to the terms of the lease, and (ii) the rent and any other monetary payments payable under the Ground Lease do not exceed the payments currently required under the Ground Lease.

WHEREAS, the proposed amendment to the Lease Agreement reflects a total reduction of \$357,624 from the original lease rent obligation for the existing term.

NOW, THEREFORE, the Board of the Placer County Successor Agency hereby resolves that:

The County Executive Officer, or his designee, is authorized to execute an amendment to the Jackpine Ground Lease which clarifies language and meaning in the lease, reflects the changes to the entities due to the Dissolution Act and reduces the overall amount of rent due for the existing term.

LEASE AMENDMENT

LEASE AGREEMENT: PLACER COUNTY RECORDER DOC-2006-011589

ADMINISTERING AGENCY: SUCCESSOR AGENCY TO THE FORMER PLACER COUNTY REDEVELOPMENT AGENCY

AMENDMENT NO: 1

AMENDMENT DESCRIPTION: IN REFERENCE TO THE SUCCESSOR AGENCY'S LEASE AGREEMENT, PLACER COUNTY RECORDER DOC-2006-011589, THIS AMENDMENT MODIFIES THE LEASE AGREEMENT AS FOLLOWS: CHANGE TENANT FROM REDEVELOPMENT AGENCY, MODIFY RENTAL RATE AND ESCALATION, CHANGE USE AND OPTION PROVISIONS.

WHEREAS, the Redevelopment Agency of the County of Placer and Hermi Jacobs Cassady, Trustee of the "Hermi Jacobs Cassady Revocable Trust of 1992" ("Landlord") have heretofore entered into a Ground Lease, recorded with the Placer County Recorder's office at DOC-2006-0115789 ("Lease") to lease real property located at Assessors Parcel Number 094-110-023 in the County of Placer, California more particularly described in the attached Exhibit A ("Property"); and,

WHEREAS, on February 1, 2012, the Redevelopment Agency of the County of Placer was dissolved by operation of State Law (ABx1-26, Health and Safety Code section 34172 et seq.); and,

WHEREAS, the Successor Agency to the Former Placer County Redevelopment Agency ("Tenant") was created pursuant to State Law, and has acceded to the rights contained in this Lease; and,

WHEREAS, Tenant and Landlord desire to enter into this Lease Amendment #1 ("Amendment") to amend the Lease to reflect this change in entities, and to reduce the Rent payable to Landlord.

NOW, THEREFORE, IT IS MUTUALLY AGREED by and between the Parties to amend the Lease as follows:

1. Recitals – Delete Section and replace in its entirety with:
"This Ground Lease (the "Lease") is entered into as of the 24th day of October, 2003, by and between Hermi Jacobs Cassady, Trustee of the "Hermi Jacobs Cassady Revocable Trust of 1992" (the "Landlord") and the Successor Agency to the Former Placer County Redevelopment Agency (the "Tenant")."

2. Section 1.1 (c) Rent – Delete Section and replace in its entirety with:
“(c)Rent: Tenant shall pay to Landlord Rent in two installments each Lease Year, the first on September 30th and the second on March 30th of each Lease Year of the Term, so long as the Term is still in effect when the applicable payment is due. Initial Rent shall be in the sum of Forty Thousand Dollars (\$40,000) per year. Commencing with the Lease Year which begins on January 1, 2005, annual Rent shall be increased each year to be a sum equal to 102.5 percent of the annual Rent for the prior year. For example, the annual Rent for Lease Year 2005 shall be \$41,000; the annual Rent for Lease Year 2006 shall be \$42,025; and so forth, until the reset of annual Rent and increase-multiplier in Lease Year 2013. In the Lease Year that commences January 1, 2013, the annual Rent shall be Thirty Six Thousand Five Hundred Fifty Two Dollars (\$36,552). Commencing with the Lease Year which begins on January 1, 2014, annual Rent shall be increased each year to be a sum equal to 103.0 percent of the annual Rent for the prior year. For example, the annual Rent for Lease Year 2015 shall be \$37,648.56; the annual Rent for Lease Year 2016 shall be \$38,778.02; and so forth throughout the remainder of Term of the Lease.”

3. Section 1.1 (d) Use – Delete Section and replace in its entirety with:
“(d) Use: Tenant may use the Property for any lawful use, including without limitation parking; provided, however, that Tenant shall not use the Property in such a manner as to violate any applicable law, rule, ordinance or regulation of any governmental body.”

4. Section 1.1 (f) Tenant Address – Delete Section and replace in its entirety with:
“(f) Tenant Address: Successor Agency to the Former Placer County Redevelopment Agency, 11476 C Avenue, Auburn, CA 95603, Attn: Property Manager.”

5. Section 1.1 (g) Public Entity Tenant Authorization – Delete Section and replace in its entirety with:
“(g)Public Entity Tenant Authorization: Entry into the Lease was approved by the Redevelopment Agency of the County of Placer by Resolution No. 2003-264 on October 21, 2003. Authorization for Tenant to enter into this Lease Amendment No. 1 was approved by the Oversight Board by Resolution No. 2012-08 on August 14, 2012; and the Successor Agency to the Former Placer County Redevelopment Agency by Resolution No. _____ on _____.”

6. Section 2.1 (e) “Improvements” – Delete Section and replace in its entirety with:
“(e) “Improvements” shall mean improvements constructed or existing on the Property and consistent with the Use defined in Section 1.1(d) herein, related utilities, landscaping and such other improvements that Tenant may construct on the Property.”

7. Section 2.1 (i) “Lease Year” – Delete Section and replace in its entirety with:
“Lease Year” shall mean a period of one fiscal year beginning July 1 and ending June 30. The first Lease Year shall commence on the Rent Commencement Date and end on the last day of the following June. The last Lease Year shall

begin on July 1 of that year and end on the last day of this Lease."

8. Section 2.1 (l) "Redevelopment" – Delete Section in its entirety.
9. Lease Page 4 Duplication – Due to the insertion of a second "Page 4" into the recorded Lease (DOC-2006-0115789), certain Sections are duplicated. To resolve this matter, delete the entire "Page 4" that commences with Section 2.1 (d) and ends with Section 2.1 (n) (iii). To address interlineations in Section 2.1 (i) on this Page 4, item 7 above incorporates these changes into this Amendment.
10. Section 2.1 (o) "Tenant" – Delete Section and replace in its entirety with:
"(o) "Tenant" means the Tenant as defined in the recitals of this Amendment."
11. Section 3.4 (b) (iii) Option for Extended Term – Insert a sentence at the end of this Section that states:
"Landlord shall notify Tenant of close of escrow, or failure to close escrow, within three calendar days of either event."
12. Section 3.4 (b) (iv) Option for Extended Term – Delete Section and replace in its entirety with:
"(iv) During the Extended Term, Rent shall continue to be payable in two installments due on March 30th and September 30th of each Lease Year of the Extended Term. The amount of Rent due during the Extended Term shall be determined by one of the two following methods, at the sole election of the Landlord. If nine (9) months prior to expiration of the Initial Term, Landlord has not notified Tenant in writing, of Landlord's election to determine the Rent for the Extended Term under subsection (B), below, then Rent for the Extended Term shall be determined under subsection (A), below. The Rent for the Extended Term shall be determined as follows, either:
 - (A) The Rent for the first full Lease Year and any portion of a full Lease Year during which the Extended Term commences shall be the same as the Rent (on an annual basis, prorated as to a partial Lease Year) for the final year of the Initial Term. Commencing with the second full Lease Year of the Extended Term, the Rent shall be a sum equal to 102.5 percent of the annual rent for the prior year. The Rent for each subsequent year of the Extended Term shall be increased to a sum equal to 102.5 percent of the prior year's Rent, in the same manner throughout the Extended Term of this Lease.*
 - (B) The Landlord and Tenant shall meet and confer to determine the fair market rent for the Extended Term within sixty (60) days after Tenant's receipt of Landlord's notice to determine Rent for the Extended Term under this subsection. If the Landlord and Tenant do not agree on the fair market rent within this sixty (60) day period, then each shall appoint a qualified professional appraiser or real estate broker to determine the fair market rent. If the higher of the two opinions is not more than one hundred ten percent (110%) of the lower opinion, the fair market value shall be the midpoint between the two opinions. If the higher of the opinions is more than one*

hundred ten percent (110%) of the lower opinion, the two appraisers/brokers shall jointly agree on a third qualified professional appraiser or real estate broker to determine the fair market rent. If the two initial appraisers/brokers cannot agree on the third appraiser/broker, the parties shall submit the matter to mediation for appointment of an appraiser/broker. Each party shall pay one half (1/2) of the cost of the third appraiser/broker. The value as determined by the third appraiser/broker shall be the fair market rent unless that value is higher than the higher initial opinion or lower than the lower initial opinion in which case the fair market rent shall be the midpoint between the two initial opinions."

13. Section 3.5 Right of First Refusal – Delete Section and replace in its entirety with:
"3.5 Right of First Refusal. During the Term and any Extended Term, in the event that Landlord initiates marketing of the Property for sale, or receives a bona fide offer to purchase the Property from a third party that Landlord intends to accept; Landlord shall notify Tenant in writing of its marketing, or provide Tenant with a copy of such unsolicited offer. Tenant shall have a right of first refusal to buy the Property for the price at which Landlord is marketing the property, or at the price offered to the Landlord by the third party ("Refusal Right"). Tenant shall notify Landlord in writing of its intent to exercise its Refusal Right within sixty (60) days after receipt of notice from Landlord and if Tenant exercises its Refusal Right, Tenant shall open escrow to purchase the Property and shall close escrow to purchase the Property within ninety (90) days after receipt by Landlord of the Tenant's exercise notice. Upon close of escrow for the purchase of the Property by Tenant, this Lease shall terminate. Neither the Refusal Right nor any other term or condition in this lease precludes Tenant from making an offer to purchase the Property from Landlord, which offer Landlord may or may not accept, during the Term of the Lease. Should Tenant fail to exercise its Refusal Right within the sixty (60) day period (which time period may be extended by mutual consent of the parties), Tenant shall be conclusively presumed to have waived said Right and Landlord may proceed with a sale to the third party. Tenant shall execute any documents necessary to allow the completion of such sale, and shall hold Landlord harmless from any failure by Tenant to so execute. This Refusal Right is conditioned on Tenant not being in material default under this Lease. This Refusal Right is not assignable, except for an assignment to the entity or district identified pursuant to Section 6.5."
14. Section 6.1 (a) Permitted Uses. – Delete Section and replace in its entirety with:
"(a) Permitted Uses. The Tenant shall use the Property in a manner consistent with Section 1.1 (d) Use, herein."
15. Section 10.1 Assignment by Tenant. – Delete Section and replace in its entirety with:
"10.1 Assignment by Tenant. The Tenant shall have the right, subject to Landlord's written consent which shall not be unreasonably withheld, to transfer and assign, in whole or in part, all its rights and obligations under this Lease and in the Property and in such event such transferee shall be deemed to have assumed such obligations and no further liability or obligation shall thereafter

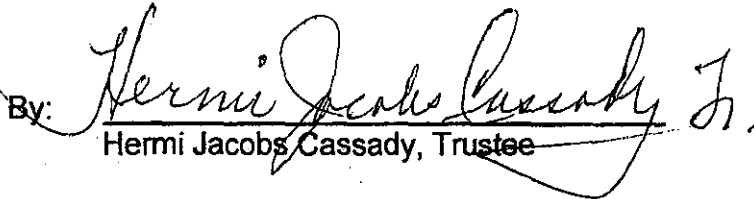
accrue against the Tenant under this Lease, except that Tenant may assign this Lease without Landlord's consent to any district or entity that will operate the Improvements as identified or created pursuant to Section 6.5."

16. **Section 10.2 Subletting.** – Delete Section and replace in its entirety with:
"10.2 Subletting. For purposes consistent with Section 1.1 (d) Use, herein; Tenant shall have the right, with Landlord's written consent which shall not be unreasonably withheld or delayed, except that Tenant may assign this Lease without Landlord consent as provided in Section 10.1, to sublet all or any part or parts of the Property or the Improvements or both, and to assign, encumber, extend, or renew any sublease, provided the following conditions are complied with:"

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IN WITNESS WHEREOF, the PARTIES have duly executed this Lease Amendment which will be appended to the Lease Agreement and shall be in effect on the day and year executed by the TENANT.

LANDLORD: HERMI JACOBS CASSADY, TRUSTEE OF THE "HERMI JACOBS CASSADY REVOCABLE TRUST OF 1992"

By: 
Hermi Jacobs Cassady, Trustee

Date: 11-6-12

TENANT: SUCCESSOR AGENCY TO THE FORMER PLACER COUNTY REDEVELOPMENT AGENCY

By: _____
David Boesch, CEO

Date: _____

APPROVED AS TO FORM: SUCCESSOR AGENCY COUNSEL

By: 
Successor Agency Counsel

Date: 11/7/12

**EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY**

Order No. 102-26851

**EXHIBIT "A"
LEGAL DESCRIPTION**

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF PLACER, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

A PORTION OF LOT NUMBERED FOUR (4) AND A PORTION OF THE SOUTHWESTERLY ONE-HALF OF EAST STREET (ABANDONED) AS SAID LOT AND STREET ARE DELINEATED ON THE MAP OF "BITTENCOURT TRACT", FILED IN THE OFFICE OF THE RECORDER OF PLACER COUNTY ON OCTOBER 16, 1874, IN BOOK "A" OF MAPS, AT PAGE 84 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF TAHOE STREET AND THE MOST NORTHEAST CORNER OF JACK PINE STREET, AS DESCRIBED IN HIGHWAY DEED TO THE COUNTY OF PLACER, RECORDED IN BOOK 1129, PAGE 258; THENCE FROM THE POINT OF BEGINNING FROM A TANGENT THAT BEARS SOUTH 44 DEGREES 26 MINUTES WEST ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES, A DISTANCE OF 31.42 FEET, AND A CHORD OF SOUTH 00 DEGREES 34 MINUTES EAST 28.28 FEET; THENCE SOUTH 45 DEGREES 34 MINUTES EAST 6.91 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 175.00 FEET, A CENTRAL ANGLE OF 20 DEGREES 00 MINUTES, A LENGTH OF 61.08 FEET, AND A CHORD OF SOUTH 55 DEGREES 34 MINUTES EAST 60.78 FEET; THENCE SOUTH 65 DEGREES 34 MINUTES EAST 37.92 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 225.00 FEET, A CENTRAL ANGLE OF 20 DEGREES 00 MINUTES, A LENGTH OF 78.54 FEET, AND A CHORD OF SOUTH 55 DEGREES 34 MINUTES EAST 78.14 FEET; THENCE SOUTH 45 DEGREES 34 MINUTES EAST 7.79 FEET; THENCE NORTH 44 DEGREES 26 MINUTES EAST 166.42 FEET TO THE CENTERLINE OF ABANDONED EAST STREET; THENCE NORTH 45 DEGREES 34 MINUTES WEST ALONG SAID CENTERLINE, 207.12 FEET TO THE SOUTHEASTERLY LINE OF TAHOE STREET; THENCE SOUTH 44 DEGREES 26 MINUTES WEST ALONG SAID LINE, 208.51 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

A NON-EXCLUSIVE UNDERGROUND UTILITY EASEMENT AS RESERVED IN THE NORTHEASTERLY 5 FEET OF THE PARCEL DESCRIBED IN DEED TO TEXACO, INC., RECORDED IN BOOK 1085, PAGE 593, OFFICIAL RECORDS.

APN: 094-110-023

CLTA Preliminary Report

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