

**PLACER COUNTY**  
**REDEVELOPMENT AGENCY**

**MEMORANDUM**

**TO:** Honorable Members of the Redevelopment Agency Board  
**FROM:** Richard Colwell, Chief Assistant CEO – Redevelopment Director *REC Colwell*  
Rae James, Deputy Director  
**DATE:** July 25, 2006  
**SUBJECT:** Adopt a Resolution Authorizing Acceptance of a Land Dedication Valued at \$650,000 from the Tahoe Yacht Harbor LLC, and Authorize the Chief Assistant CEO-Redevelopment Director or Designee to Sign All Related Documents, Subject to the Review of Agency Counsel.

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**ACTION REQUESTED:** Adopt a resolution authorizing acceptance of a Land Dedication valued at \$650,000 from the Tahoe Yacht Harbor LLC, and authorize the Chief Assistant CEO-Redevelopment director or designee to sign all related documents, subject to the review of Agency Counsel.

**BACKGROUND:** The Tahoe City Marina has been in operation for over sixty years and is currently owned by the Tahoe Yacht Harbor LLC (Harbor LLC). The Harbor LLC approached the Agency in 2000 with a concept that included the expansion of the Marina and the dedication of land to the Agency for the construction of a three-level public parking garage. In March 2005 the County Planning Commission approved the Marina Expansion Environmental Impact Statement/Environmental Impact Report. Included in the environmental review was the provision for the public parking garage. The garage site consists of approximately 24,242 square feet of property on approximately one-half acre located at the site of the Marina. Currently the Marina caretaker resides in a building on the site, however Harbor LLC will be responsible for his relocation and all associated costs required under California law.

The Agency will receive site control through a Land Dedication that will accommodate the construction of the garage and access to all levels of the structure. Initial designs propose a low profile that could improve the lake view from Highway 28 (see Attachment – Site Map). The structure will provide parking for 138 vehicles, and pedestrian access to Highway 28 and the Marina. There is a related item on this Board agenda related to the easement access to the third floor of parking structure.

Board approval of this item would also add the property to the Master Fixed Asset List.

**DEDICATION AGREEMENT TERMS:** The following are the key terms of the Agreement (see Attachment – Proposed Agreement):

1. Harbor LLC will transfer fee title to the Agency for the proposed dedicated land in conformance with a survey that will provide a legal description of exact boundaries.

2. Harbor LLC and the Agency will cooperate to form a legal parcel and to obtain TRPA approval of the subdivision split and coverage designation.
3. Harbor LLC agrees to relocate the property caretaker residing on the property and be responsible for any relocation benefits and assistance to such person as set forth in Government Code Section 7260 et seq.
4. Agency agrees to demolish existing structure, including abatement of asbestos in structure.
5. Agency agrees to maintain the property in good condition.
6. Agency agrees to provide merchant business inconvenience support during the construction of the parking garage.
7. The Agency will cooperate with the Harbor LLC to seek proper approvals to credit the expansion of the Marina with parking spaces within the garage, that are lost due to the construction of the garage.

Attached in substantial form, is the proposed Dedication Agreement, pending final legal description and execution. Construction of the parking structure will take two Tahoe building seasons. Construction is anticipated to begin in 2008.

**FISCAL IMPACT:** The Agency acknowledges the land dedication valued at \$650,000. Upon acceptance of the Land Dedication and recordation of the legal boundary description, the new parcel will be removed from the County tax rolls and no taxes will be assessed on the dedicated portion of the site. The construction of the Marina Public Parking Garage and associated easements are anticipated to be paid from North Lake Tahoe Redevelopment Area Tax Increment Bond Proceeds approved by your Board on June 27, 2006. There will be no impact on the County General Fund.

**ENVIRONMENTAL STATUS:** The National Environmental Policy Act and California Environmental Quality Act process is complete on the Tahoe City Marina Master Plan that contains the public parking structure. A Finding of No Significant Impact was issued and the Environmental Impact Report/Environmental Impact Statement certified with appropriate findings. The TRPA Governing Board confirmed the determination on February 23, 2005 and the Planning Commission confirmed its determination on March 24, 2005.

**RECOMMENDATION:** Adopt a resolution authorizing acceptance of a Land Dedication valued at \$650,000 from the Tahoe Yacht Harbor LLC, and authorize the Chief Assistant CEO-Redevelopment director or designee to sign all related documents, subject to the review of Agency Counsel.

Attachments:

cc: Sabrina Thompson, Agency Counsel

200

**Please use a blank page behind memo to insert any other cc's besides Sabrina Thompson**

This will let the Administrative Assistant know who else gets a copy of board package

bcc: Ron Baker, Senior Administrative Services Officer  
Cindy Kelly, Senior Administrative Services Officer

**Before the Redevelopment Agency of  
Placer County Board of Directors  
County of Placer, State of California**

In the matter of:

**Adopt a Resolution Authorizing Acceptance of a Land Dedication Valued at \$650,000 from the Tahoe Yacht Harbor LLC, and Authorize the Chief Assistant CEO-Redevelopment Director or Designee to Sign all Related Documents, Subject to the Review of Agency Counsel.**

Resol. No:.....

Ord. No:.....

First Reading: .....

The following Resolution was duly passed by the Redevelopment Agency Board of the County of Placer at a regular meeting held July 25, 2006,

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

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BE IT RESOLVED by the Board of the Redevelopment Agency of Placer County as follows:

WHEREAS, the Redevelopment Plan for the North Lake Tahoe Redevelopment Project Area (Redevelopment Plan) was adopted by the Placer County Board of Supervisors on July 16, 1996 by Ordinance No. 4753-B and as subsequently amended from time to time; and

WHEREAS, the Redevelopment Agency of Placer County ("Agency") is vested with responsibility pursuant to the Community Redevelopment Law (Part I of Division 24 of the

Health and Safety Code of the State of California) to implement the Redevelopment Plan in the Project Area; and

WHEREAS, the Agency desires use of dedicated land for a public parking structure; and

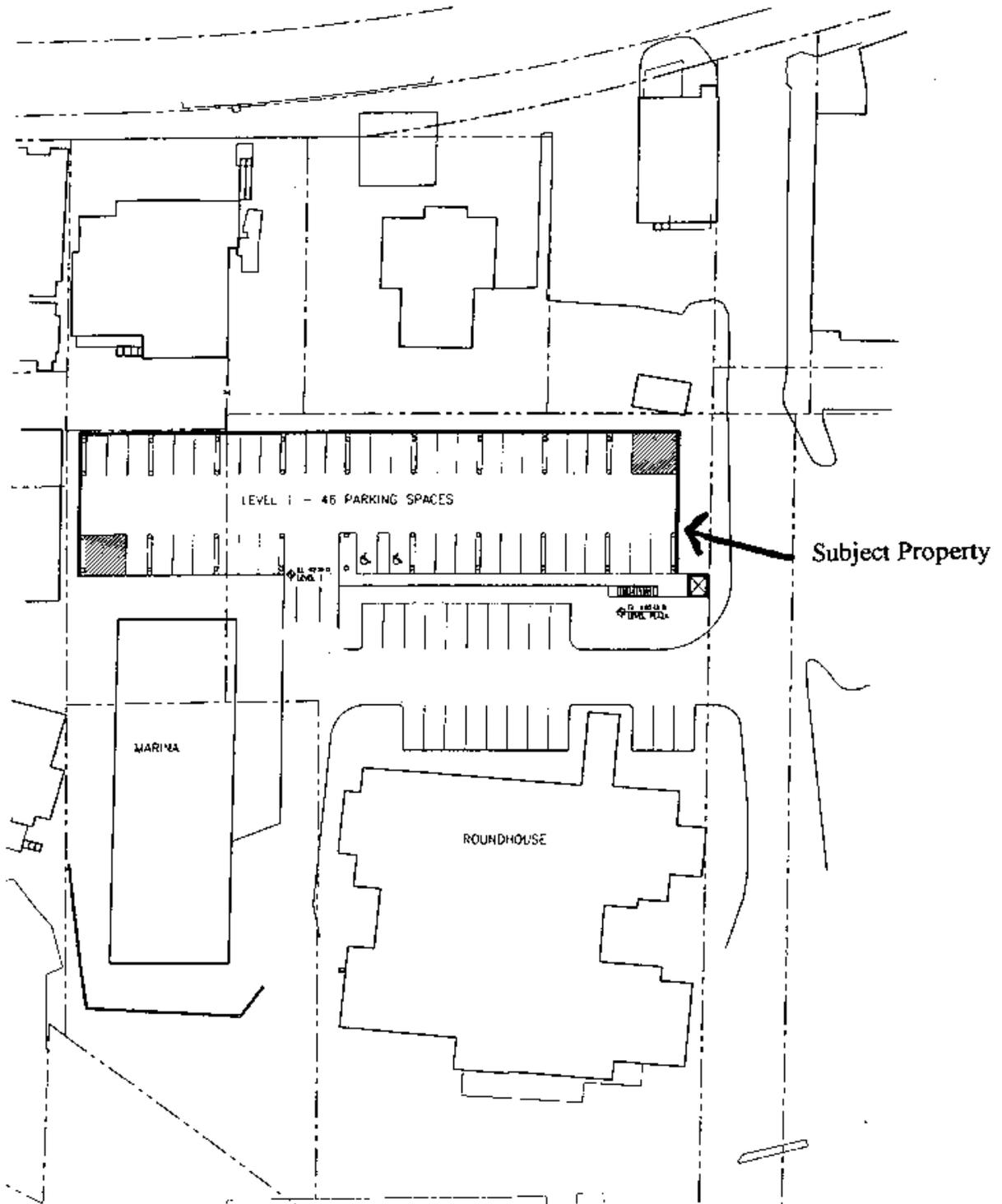
WHEREAS, the NEPA and CEQA processes are complete on the Tahoe City Marina Master Plan that includes property being dedicated and a Finding of No Significant Impact was issued and the Environmental Impact Report/Environmental Impact Statement certified with appropriate findings; and

WHEREAS, by the staff report accompanying this Resolution and incorporated herein by this reference, the Agency Board is provided additional information upon which the findings and actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that based on information presented, the Agency Board determines as follows:

1. All of the above recitals are true and correct, and the Agency Board has based the findings and actions set forth in this Resolution, in part, on such recitals.
2. The Agency Board consents to the acceptance by the Agency of land being dedicated by the Tahoe Yacht Harbor LLC valued at \$650,000.
3. The Agency Board authorizes the Chief Assistant CEO–Redevelopment Director, or designee to execute all necessary documents to carry out this dedication. This property is approved to be added to the Master Fixed Asset List.
4. This Resolution shall take immediate effect from and after its passage and approval.

Attachment – Site Map



FIRST LEVEL PLAN

June 29, 2005

TAHOE MARINA PUBLIC PARKING FACILITY

**WRNS** CONSULTING  
300 RECORD STREET  
11th FLOOR STE 400  
SAN FRANCISCO  
CALIFORNIA 94104  
415 455 3734 FAX  
415 328 9100 CELL  
WWW.WRNS.COM

204

DEDICATION AND PARKING DEVELOPMENT AGREEMENT

WITH

ESCROW INSTRUCTIONS

Between

REDEVELOPMENT AGENCY OF PLACER COUNTY

And

TAHOE YACHT MARINA LLC

Dated July 25, 2006

**DEDICATION AND PARKING DEVELOPMENT AGREEMENT  
WITH  
ESCROW INSTRUCTIONS**

(Marina, Tahoe City, California)

This Dedication and Parking Development Agreement with Escrow Instructions (this "Agreement") is made as of the 25th of July, 2006 (the "Effective Date"), by and between the Redevelopment Agency of Placer County, a public body corporate and politic (the "Agency"), and Tahoe Yacht Harbor LLC, a California limited liability company (the "Dedicator"), with reference to the following facts:

A. Pursuant to authority granted under California law, the Agency has the responsibility to implement the Redevelopment Plan for the North Lake Tahoe Redevelopment Project adopted by the Board of Supervisors of the County of Placer by Ordinance No. 4753-B on July 16, 1996, as amended from time to time (the "Redevelopment Plan"). The Redevelopment Plan affects and controls the development and use of all the real property located within the North Lake Tahoe Redevelopment Project Area, as more particularly described in the Redevelopment Plan (the "Project Area"), and is incorporated in this Agreement by this reference.

B. The Dedicator is fee owner of certain real property in Tahoe City, California, as more particularly described in Exhibit A attached to this Agreement (the "Property"). The Dedicator also owns real property adjacent to the Property on which it operates a marina and related concerns. The Property is located within the Project Area. The Property includes all coverage rights and development rights associated with the Property under codes, procedures and policies of the Tahoe Regional Planning Agency ("TRPA") and any TRPA approvals for the Property. Such coverage rights and development rights shall be referred to in this Agreement as "Coverage Rights" and "Development Rights," respectively.

C. The Dedicator wishes to dedicate the Property to the Agency, and the Agency wishes to accept the Property from the Dedicator, pursuant to the terms and conditions of this Agreement.

D. The Agency plans to build a public parking facility on the Property.

E. The Dedicator and the Agency are referred to collectively in this Agreement as the "Parties," and the Dedicator and the Agency are referred to individually in this Agreement as a "Party."

WITH REFERENCE TO THE FACTS DESCRIBED ABOVE, the Agency and the Dedicator agree as follows:

Section 1. Dedication

Subject to the terms and conditions of this Agreement, the Dedicator shall dedicate the Property to the Agency and the Agency shall accept the dedication of the Property from the Dedicator. The Parties agree that the parking facility the Agency is to construct on the Property should enhance, not decrease, the value of the adjacent marina property owned by Dedicator.

Section 2. No Consideration for Dedication

The Agency shall not pay the Dedicator any consideration for the Property. The Parties have determined that the fair market value of the Property as of date of this Agreement is Six Hundred Fifty Thousand Dollars (\$650,000) as determined by an appraisal prepared by Johnson-Perkins & Associates, Inc. and dated December 12, 2005.

Section 3. Escrow

a. The Parties shall establish escrow (the "Escrow") with Placer Title Company (the "Escrow Holder") upon execution of this Agreement. "Close of Escrow" shall be the date on which the Escrow Holder records the Grant Deed to the Property, as accepted by the Agency. Close of Escrow shall occur only after the conditions set forth in this Agreement have been satisfied or waived as provided in this Agreement, but no later than December 31, 2006 unless extended by mutual written agreement of the Agency and the Dedicator.

b. Through the Escrow Holder, the Dedicator shall convey to the Agency good and marketable fee title to the Property by delivery of a grant deed in form and substance satisfactory to the Agency and Dedicator (the "Grant Deed"). Close of Escrow shall also be conditioned on the Agency's ability to obtain an A.I.T.A. extended coverage policy of title insurance, with any exceptions to coverage approved by Agency, issued by the Escrow Holder in the full amount of the fair market value of the Property as set forth in Section 2 subject only to the conditions accepted by the Agency in Section 8 (the "Title Policy").

c. The Dedicator shall indemnify and hold the Agency harmless from all expense, loss, damage, and claims, if necessary, arising from contracts for goods and services for the Property, which expense, loss, damage or claim arises from and relates to the period of time when Dedicator owned the Property. The provisions of this subsection c. shall survive this Agreement and the Close of Escrow.

Section 4. Memorandum of Agreement

No later than five (5) business days after the Effective Date, the parties agree to execute and record in the official records of Placer County against the Property a memorandum of this Agreement (the "Memorandum") in the form attached hereto as Exhibit B.

Section 5. Contingency Period.

Agency's obligation to accept the dedication of the Property is contingent on the satisfaction of the conditions set forth in Section 6, Section 7, Section 8, Section 9, Section 10

and Section 11 (collectively, the "Contingencies") within the one hundred twenty (120) days period after the date of this Agreement (the "Contingency Period").

Section 6. Feasibility Determination.

The Agency shall have made determinations of its satisfaction that (a) the Property is suitable for development of an approximately 150 parking space, 3-level, parking structure (the "Project"), (b) the Project is feasible from architectural, land use, land capability, utility capacity and economic perspectives and (c) the Agency has been able to acquire access easements to the Property from adjoining property owners within the Contingency Period. The Agency shall give Dedicator written notice of such determinations within the Contingency Period.

The Agency acknowledges that the following approvals have been already been obtained for the Project: TRPA approval of the Tahoe City Marina Master Plan (by TRPA Ordinance 05-02 adopted on February 23, 2005); review and certification of Environmental Impact Report and Environmental Impact Statement for the Project by the County of Placer, as evidenced by a Notice of Determination filed with the County Clerk on March 30, 2005, and issuance of a conditional use permit for the "Tahoe City Marina" (PCPA 2004 0883) by the Placer County Planning Commission on March 24, 2005. The Agency has also already conducted studies of the hazardous materials on the Property.

The Agency may conduct any inspections, at Agency's expense, that Agency deems necessary, including, inspection of on-site drainage facilities. Dedicator grants Agency the right to enter the Property for the purpose of conducting examinations and inspections. Agency shall notify Dedicator prior to conducting any invasive testing of the Property; and Agency shall cooperate with Dedicator to ensure that any such access results in the least possible disruption of the Property. Agency shall repair any damage to the Property caused by Agency's inspections and tests and shall restore the Property to substantially the condition existing as of the Effective Date. Agency hereby agrees to defend, indemnify and hold Dedicator harmless from and against any and all claims, liens, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, and all costs incurred in connection therewith arising directly out of any investigative activities of Agency or its agents or representatives on the Property at any time following the Effective Date, except to the extent arising upon the discovery of any latent conditions in the Property. Agency's failure to timely notify Dedicator of Agency's approval of the condition of the Property by the end of the Contingency Period pursuant to this Section 6 shall be deemed Agency's election to terminate this Agreement. Upon such termination, neither party shall have any further duties, obligations, rights, or liabilities under this Agreement, except those provisions specified to survive the termination of this Agreement.

Section 7. Survey.

Agency shall obtain an American Land Title Association (ALTA) survey, at its sole cost and expense, (the "Survey") within thirty (30) days after the Effective Date. If the Survey shows any matter affecting the Property that is unacceptable to Agency, Agency shall, on or before the date forty (40) days after the Effective Date, notify Dedicator in writing of such facts and the reasons therefore. If Agency makes an objection pursuant to this Section, Dedicator, within ten (10) days

after receipt of Agency's objection, shall notify Agency in writing whether Dedicator elects to (i) cause the matter to be removed from title or the Property, (ii) obtain a commitment from Escrow Holder for an appropriate endorsement to the policy of title insurance to be issued to the Agency, reasonably acceptable to Agency, insuring against the objectionable matter if available, or (iii) terminate this Agreement unless the Agency elects to take Property subject to such matter.

Section 8. Title.

Agency approves title exceptions 1-8, 15-16 and 24 appearing on the Preliminary Title Report dated May 4, 2005 and issued by Escrow Holder in connection with the Escrow (the "Title Report"). Dedicator shall notify Agency immediately regarding any change to the condition of title to the Property prior to the Closing Date. Should any new facts or circumstances related to title of the Property be discovered after the Effective Date, Agency shall have the right to object to such fact or circumstance or terminate this Agreement. If Agency makes an objection pursuant to this subsection, Dedicator, within fifteen (15) days after receipt of Agency's objection, shall notify Agency in writing whether Dedicator elects to (i) cause the exception to be removed from title, (ii) obtain a commitment from Escrow Holder for an appropriate endorsement to the policy of title insurance to be issued to the Agency, reasonably acceptable to Agency, insuring against the objectionable exception, or (iii) terminate this Agreement unless the Agency elects to take title subject to such exception.

Section 9. Document Inspection.

Agency shall be satisfied with the condition of the Property within the Contingency Period. Within five (5) days following the Effective Date of this Agreement, Dedicator shall make available to the Agency for Agency's review and approval the following documents, if any, (the "Preliminary Documents") in Dedicator's possession: (i) any and all existing third party reports, studies and investigations related to the Property's physical condition including, soils reports, or inspection reports, if any; (ii) a disclosure statement Dedicator needs to prepare regarding known conditions that may affect the value of the Property, including prior uses of the Property, environmental conditions, water rights and easements; (iii) any existing architectural plans and drawings, record of survey, and specifications for the Property, if any; (iv) any existing records relating to any lawsuits pending against the Dedicator, its agents or employees in connection with the ownership, operation, or management of the Property; (v) any existing leases affecting the Property; (vi) any existing TRPA Stream Zone Maps in Dedicator's possession; and (vii) current verification of TRPA excess coverage fees, Development Rights and Coverage Rights for the Project and Property. In the event Agency does not approve any of these documents, the Agency shall have until 5:00 p.m. on the expiration date of the Contingency Period within which to waive or remove the contingencies or to exercise its right to terminate this Agreement by providing written notice to Dedicator of its election to do so pursuant to this Section. Upon any such termination, neither party shall have any further duties, obligations, rights, or liabilities under this Agreement, except those provisions specified to survive the termination of this Agreement.

Section 10. Tree Preservation Requirements.

Agency shall have until the expiration of the Contingency Period to conduct a tree survey to determine the tree preservation requirements related to the Property and the development of the Project. In the event that the Agency determines that the applicable tree preservation requirements render the Project infeasible, the Agency shall notify Dedicator by the end of the Contingency Period. Agency's timely notice to Dedicator pursuant to this Section 10 shall be deemed Agency's election to terminate this Agreement. Upon such termination, neither party shall have any further duties, obligations, rights, or liabilities under this Agreement, except those provisions specified to survive the termination of this Agreement.

Section 11. Subdivision or Lot Line Adjustment.

Agency and the Dedicator shall cooperate together to form a legal parcel of the Property pursuant to all applicable subdivision, lot line adjustment and subdivided lands laws and regulations, as applicable, and to obtain TRPA approval of such subdivision or lot line adjustment. In the event that the subdivision or lot line adjustment is not obtainable within the Contingency Period, the Agency shall so notify Dedicator by the end of the Contingency Period. Agency's timely notice to Dedicator pursuant to this Section 11 shall be deemed Agency's election to terminate this Agreement. Upon such termination, neither party shall have any further duties, obligations, rights, or liabilities under this Agreement, except those provisions specified to survive the termination of this Agreement. [

Section 12. Escrow Instructions

a. This Agreement shall constitute not only the dedication agreement between the Agency and the Dedicator, but also joint instructions to the Escrow Holder for the consummation of dedication of the Property contemplated under this Agreement through the Escrow. The Escrow Holder shall not prepare any further escrow instructions restating or amending this Agreement unless so instructed by the Parties.

b. The Parties authorize and instruct the Escrow Holder to conduct the Escrow in accordance with this Agreement, applicable law, and the custom and practice of the community in which the Escrow Holder is located.

c. Upon the executed Grant Deed having been deposited into the Escrow and the satisfaction or waiver of all conditions set forth in this Agreement and any additional Escrow instructions signed by the Parties, the Escrow Holder shall close this Escrow by recording the Grant Deed and other documents required to be recorded and by disbursing the funds and documents in accordance with this Agreement. The Grant Deed shall transfer all rights and indices of ownership of the Property to the Agency.

d. Agency shall pay County Transfer Tax if any. Agency shall pay for costs associated with the Title Policy and escrow fees. Agency shall pay any other costs of closing.

Section 13. Additional Conditions to Close of Escrow.

a. Conditions to Agency's Obligations. The Close of Escrow and Agency's acceptance of dedication of the Property are subject to the satisfaction of the following conditions or Agency's written waiver of such conditions on or before the Closing Date:

(i) Dedicator shall have performed all obligations to be performed by Dedicator pursuant to this Agreement.

(ii) Agency had approved all of the Contingencies set forth in Sections 5 through 11.

(iii) Dedicator's representations and warranties herein shall be true and correct in all material respects as of the Closing Date.

(iv) Pursuant to Section 3, the Title Company shall be irrevocably committed to issue the Title Policy to Agency, as of the Closing Date.

(v) There shall be no moratorium, prohibition or any other measure, rule, regulation or restriction, including, without limitation, any moratorium on the provision of or hook-up to public utilities, which was not in force as of the end of the Feasibility Period and the effect of which would be to preclude any inspections, or the issuance of any building or other permits, or construction, of the Project on the Property as contemplated by the Agency; provided however that the occurrence of any of the restrictions set forth in this subsection shall not be deemed to be a Dedicator default.

(vi) The Dedicator and Agency have formed a legal parcel of the Property pursuant to all applicable subdivision, lot line adjustment and subdivided lands laws and regulations

(vii) The Dedicator has relocated the caretaker living in the existing structure on the Property and shall be responsible for any relocation benefits and assistance to such person as set forth in Government Code Section 7260 et seq.

Agency may waive, in writing, any or all such conditions in its sole and absolute discretion.

b. Conditions to Dedicator's Obligations. The Close of Escrow and Dedicator's obligations to dedicate the Property are subject to the satisfaction of the following conditions or Dedicator's written waiver of such conditions on or before the Closing Date:

(i) Agency shall have performed all obligations to be performed by Agency pursuant to this Agreement before Closing Date.

(ii) Agency's representations and warranties and covenants set forth herein shall be true and correct in all material respects as of the Closing Date.

Dedicator may waive, in writing, any or all such conditions in its sole and absolute discretion.

Section 14. Representations

a. Dedicator represents for itself to the Agency, as of the date of this Agreement, as follows:

(i) Dedicator is a California limited liability company in good standing and authorized to do business in the State of California.

(ii) Dedicator's entry into and performance of this Agreement does not conflict with any laws or regulations to which the Dedicator is subject or any other agreements to which the Dedicator is a party except to the extent approvals for a lot line adjustment or other applicable processes are necessary as indicated in Section 11.

(iii) Dedicator is duly authorized to enter into and perform the Dedicator's obligations under this Agreement.

(iv) There will be no leases, management agreements, contracts, warranties, guaranties, bonds or other agreements which will affect the Property or which will be obligations of the Agency, other than as disclosed to Agency pursuant to Section 9 and as specifically approved by Agency.

(v) To the best of the Dedicator's knowledge, there is no pending or threatened condemnation or similar proceeding affecting the Property, nor does the Dedicator have any knowledge that any such action is contemplated.

(vi) To the best of the Dedicator's knowledge, and except as set forth in the attached Exhibit C, or described in the materials delivered to Agency pursuant to Section 9, there are no notices of code violation, legal actions, or other legal proceedings pending or threatened against or affecting the Property or the Dedicator's title to the Property, and the Dedicator has not received notice from any public entity with respect to any future proceeding or basis for any future proceeding against or affecting the Property, or concerning any existing or potential, past, present or future toxic or hazardous material or conditions at the Property.

(vii) To the best of the Dedicator's knowledge, there are not now and have never been any toxic or hazardous materials or conditions at, on, or under the Property except as indicated in the attached Exhibit D or described in the materials delivered to Agency pursuant to Section 9.

(viii) Dedicator is not a "foreign person" under Section 1445 of the Internal Revenue Code.

(ix) The Dedicator is the sole owner of the Property and has marketable and insurable fee simple title to the Property, free of restrictions, leases, liens, and other encumbrances, except for the exceptions to title shown in the Title Report.

(x) The Dedicator shall not transfer or sell any Coverage Rights or Development Rights associated with the Property to any party.

(xi) The attached Exhibits C and D, setting forth physical and other conditions of the Property, accurately describe the Property's conditions.

During the term of this Agreement, Dedicator shall have a continuing duty to notify Agency of any material facts in Dedicator's knowledge which would render any of the representations set forth above false. Such duty shall not, however, abrogate nor limit Agency's independent responsibility to perform its own investigation into the Property. Except in the case of Dedicator's willful or knowing misrepresentation, in the event that Agency discovers at any time prior to the Closing Date that any of the representations or warranties set forth in this Section 14 are false, Agency's sole remedy shall be the right to terminate this Agreement. In the event that Agency learns that any Dedicator representation or warranty might be untrue prior to the Closing Date, and Agency elects to acquire the Property anyway, then, and in that event, Agency shall conclusively be deemed to have waived any right it may have to bring an action or proceeding against Dedicator regarding said representation or warranty.

b. The Agency represents to the Dedicator, as of the date of this Agreement, as follows:

(i) The Agency's entry into and performance of this Agreement does not conflict with any laws or regulations to which the Agency is subject or any other agreements to which the Agency is a party.

(ii) The Agency is duly authorized to enter into and perform the Agency's obligations under this Agreement.

Section 15. Operation and Maintenance of the Property Prior to Close of Escrow

Prior to the Close of Escrow, the Dedicator shall maintain the Property in a condition consistent with its current condition and shall make at the Dedicator's own expense all repairs necessary to maintain the Property in such condition.

Section 16. Ad Valorem Property Taxes and Assessments

Ad valorem property taxes, assessments, utilities and all other charges related to the Property shall be prorated between the Agency and the Dedicator as of the date of the Close of Escrow, such that the Dedicator is responsible for such items prior to the date of Close of Escrow and the Agency shall be responsible for such items on the date of Close of Escrow and thereafter. Such proration shall be made on the basis of a three hundred sixty-five (365)-day year.

Section 17. Casualty or Condemnation

If prior to the Close of Escrow the Dedicator becomes aware that all or any material portion of the Property has been destroyed, substantially damaged, or subjected to a threat of condemnation, or has become the subject of any proceedings, judicial, administrative, or otherwise, with respect to a taking by eminent domain or condemnation, then the Dedicator shall

promptly give the Agency notice thereof, and each Party, at its option, may, on or before the Close of Escrow, elect to terminate this Agreement by giving the other Party written notice thereof, in which event the Parties shall be relieved and released of and from any further duties, obligations, rights, or liabilities under this Agreement, except for those obligations and indemnification provisions that specifically survive this Agreement. If the Parties elect to complete the transactions contemplated in this Agreement, then this Agreement shall remain in full force and effect and the transfer of the Property, less any portion of such property destroyed, substantially damaged, or taken by eminent domain or condemnation, shall be consummated as contemplated by this Agreement, and at the Close of Escrow, the Dedicator shall transfer to the Agency all of the Dedicator's right, title, and interest in and to any insurance proceeds resulting from any casualty and any awards that have been or may thereafter be made for any taking or condemnation.

Section 18. General Indemnification

a. The Dedicator shall indemnify, and hold the Agency harmless from all expense, loss, damage, and claims, arising out of events or incidents on or about the Property, or arising out of the Dedicator's ownership. This indemnification does not apply to expenses, losses, damages and claims arising out of events or incidents on or about the Property prior to the Close of Escrow that either: (i) were caused by the Agency or the Agency's agents, employees or contractors; or (ii) are the subject of the Hazardous Materials provisions of Section 20.

b. The Agency shall indemnify, and hold the Dedicator harmless from all expense, loss, damage, and claims, arising out of events or incidents on or about the Property, or arising out of the Agency's ownership of the Property, after the Close of Escrow. This indemnification does not apply to expenses, losses, damages and claims arising out of events or incidents on or about the Property prior to the Close of Escrow that either (i) result from conditions, events or incidents which the Dedicator failed to disclose (and which could not be reasonably discovered by the Agency's inspections) or regarding which the Dedicator made misrepresentations, or (ii) are the subject of the Hazardous Materials provisions of Section 20.

c. The provisions of this Section shall survive this Agreement and the Close of Escrow.

Section 19. "As Is" Sale. The Property shall be transferred to the Agency "as is." The Dedicator's shall not be liable to the Agency for any conditions of the Property, except to the extent of Dedicator's misrepresentation or failure to disclose such conditions.

Section 20. Hazardous Materials Indemnification

The Agency acknowledges that the Dedicator makes no representations or warranties regarding the presence of any Hazardous Materials (as defined below) in, on, under or adjacent to the Property or any of the improvements situated on the Property, except as disclosed in Exhibit C and Exhibit D. By proceeding with this transaction following the satisfaction or waiver of the Contingencies, the Agency will be deemed to have made its own independent investigation with regard to the presence of Hazardous Materials as the Agency deems appropriate. Accordingly, the Agency hereby expressly waives and relinquishes any and all

rights and remedies the Agency may now or hereafter may have against the Dedicator, whether known or unknown, or patent or latent, with respect to any past, present or future presence or existence of Hazardous Materials in, on, under or about the Property or any improvements situated thereon, or with respect to any past, present or future violations of any Hazardous Materials Laws, as defined below.

Hazardous Materials means any hazardous or toxic substance, material or waste, such as those substances, materials and wastes listed in the United States Department of Transportation Hazardous Substances Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law, including, without limitation, the Resource Conservation and Recovery Act, as amended (42 U.S.C. §9601 *et seq.*, and §§25115, 25117, 25122.7, 25140, 25249.8, 25281, 25316 and 25501 of the California Health and Safety Code, and §12000 *et seq.*, of the California Code of Regulations, Division 2, Title 22, including, without limitation, asbestos, petroleum and petroleum based products, formaldehyde, PCBs, Freon and other chloroflourocarbons, or lead or lead paint.

Hazardous Materials Laws means federal, state, regional, county or local government statute, law, regulation, ordinance, order or code or any consent decree, judgment, permit, license, code, covenant, deed restriction, common law, or other requirement, presently in effect or hereafter created, issued and/or adopted, pertaining to protection of the environment, health or safety of persons, natural resources, conservation, wildlife, waste management, and pollution (including, without limitation, regulation of releases and disposals to air, land, water and ground water), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 *et seq.*, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Solid Waste Amendments of 1984, 42 U.S.C. 6901 *et seq.*, Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. 1251 *et seq.*, Clean Air Act of 1966, as amended, 42 U.S.C. 7401 *et seq.*, Toxic Substances Control Act of 1976, 15 U.S.C. 2601 *et seq.*, Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. 651 *et seq.*, Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 *et seq.*, National Environmental Policy Act of 1975, 42 U.S.C. 300(f) *et seq.*, and all amendments as well as any similar state or local statute or code and replacements of any of the same and rules, regulations, guidance documents and publications promulgated thereunder.

The Agency shall indemnify, hold harmless, and defend the Dedicator, the Dedicator's officers, employees, and agents, (collectively the "Indemnitees"), against all claims, demands, losses, liabilities, costs, and expenses (collectively the "Liabilities"), imposed upon or accruing against the Indemnitees as a result of investigatory or remedial action required by any public entity or agency having jurisdiction in connection with Hazardous Materials in, on, under or adjacent to the Property or any of the improvements situated on the Property that were the result of the Agency's action or failure to act in accordance with Hazardous Materials Laws during the Agency's inspection of the Property or after the Agency's acquisition of the Property.

The provisions of this Section 20 shall survive termination of this Agreement and the Close of Escrow.

Section 21. Brokers

a. Except as indicated in this Section, each Party represents to the other Party that it has not had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee.

b. If any broker or finder makes a claim for a commission or finder's fee based upon a contract, dealings, or communications, then the Party through whom the broker or finder makes this claim shall indemnify the other Party, defend the indemnified Party with counsel of the indemnified Party's reasonable choice, and hold the indemnified Party harmless from all expense, loss, damage and claims, arising out of the broker's or finder's claim. This Section shall survive termination of this Agreement and the Close of Escrow.

Section 22. Development of Public Parking.

If the Agency acquires the Property as provided under this Agreement, the Agency will use its good faith best efforts to construct the Project on the Property, to commence pre-construction activities for the Project no later than fall of 2007, to commence construction of the Project no later than September 1, 2008 and to complete construction of the Project no later than September 1, 2010. The Agency will incorporate Best Management Practices for the Project as prescribed by TRPA for erosion and storm water runoff control and will cooperate with Dedicator so Dedicator's adjacent property is not adversely affected by erosion and storm water runoff from the Property. The Parties agree to cooperate fully in negotiating and anticipate entering into a mutual easement agreement regarding access and related issues during the construction of the garage and the adjacent marina property, mutually acceptable operation and maintenance of the garage and the marina property and related liability and insurance issues.

Section 23. Agency Cooperation Regarding Parking Credits.

The Agency will cooperate with the Dedicator in working with the County, the Tahoe Regional Planning Agency ("TRPA"), and other government agencies to credit the public parking to be constructed by the Agency on the Property for any parking requirements for the Property. The Agency and Dedicator each acknowledge that the County, TRPA or other governmental agencies are not parties to this Agreement, and nothing in this Agreement limits such agency's discretion in considering land use and other approvals.

Section 24. Parking Management Contracts.

To the extent allowed by the laws, rules and regulations regarding structures constructed by tax-exempt financing, the Agency will circulate any request for operations and management of the Project to the Dedicator.

Section 25. Default

a. If Agency fails to complete the acquisition of the Property as provided in this Agreement by reason of any default of Agency, Dedicator shall be released from its obligation to dedicate the Property to Agency.

b. In the event that Dedicator shall fail or refuse to execute and deliver the grant deed conveying the Property, and Agency is not otherwise in default under this Agreement, Agency shall have the right to pursue an action against Dedicator and the Property for specific performance of Dedicator's obligations to convey the Property to Agency.

Section 26. Plans, Data and Approvals.

If this Agreement is terminated for any reason, then the Agency shall promptly deliver to the Dedicator copies of all plans and specifications for the Project, all permits and approvals obtained in connection with the Improvements and Project, and all applications for permits and approvals not yet obtained but needed in connection with the Project (collectively, the "Planning Documents") upon receipt of payment from the Dedicator for the Planning Documents, which payment shall equal the amount the Agency paid for such Planning Documents as established by third-party invoices. However, if the Planning Documents are used by the Dedicator or an entity designated by the Dedicator, neither the Agency nor its consultants shall be liable to the Dedicator or designated entity because of this use. The Planning Documents shall be delivered by the Agency without any warranties or representations of any type or kind, express or implied, including whether the Planning Documents have been completed in final form. The Dedicator agrees and acknowledges that all such Planning Documents will be delivered subject to the rights of any copyright holders. **[please note planning documents defined in 1<sup>st</sup> sentence of this section – see highlighted text]**

Section 27. Notices

Formal notices, demands, and communications among the Parties shall not be deemed given unless dispatched by certified mail, return receipt requested, by facsimile delivery with correct answerback received, by electronic mail or by reputable delivery service with a delivery receipt, to the Parties' principal offices as follows:

The Agency:           Redevelopment Agency of Placer County  
3091 County Center Drive, Suite 260  
Auburn, CA 95603  
Attn: Rae James, Deputy Director, Redevelopment  
Facsimile No.: (530)889-6890  
E-mail: rjames@placer.ca.gov

Dedicator:            Tahoe Yacht Harbor LLC  
P.O. Box 6510  
Tahoe City, CA 96145  
Attn: Jim Phelan  
Facsimile No.:    .   .   .   .   .   .

E-mail: \_\_\_\_\_

Such written notices, demands, and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate as provided in this Section. Receipt shall be deemed to have occurred on the date shown on the delivery receipt as the date of delivery, the date delivery was refused or the date the item was returned as undeliverable.

Section 28. Title of Parts and Sections

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 29. Applicable Law

This Agreement shall be interpreted under and pursuant to the laws of the State of California.

Section 30. Severability

If any term of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, then the remaining terms shall continue in full force unless the rights and obligations of the Parties have been materially altered by such holding of invalidity.

Section 31. Legal Actions

If any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach of this Agreement, then the Party prevailing in any such action shall be entitled to recover against the non-prevailing Party all reasonable attorneys' fees and costs incurred in such action.

Section 32. Entire Understanding of the Parties

This Agreement constitutes the entire understanding and agreement of the Parties with respect to the acquisition of the Property, and supersedes any and all other agreements, understandings and representations, whether written, oral or implied.

Section 33. Multiple Originals; Counterparts

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 34. Modifications

This Agreement shall not be modified except by written instrument executed by the Parties.

Section 35. Successors

Neither party shall assign this Agreement prior to Close of Escrow without the prior written consent of the other Party.

Section 36. Time of the Essence

Time is of the essence in this Agreement.

Section 37. Cooperation of Parties

The Parties shall, during the Escrow period, execute any and all documents reasonably necessary or appropriate to close the acquisition of the Property pursuant to the terms of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on or as of the date first above written.

REDEVELOPMENT AGENCY OF PLACER  
COUNTY, a public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

TAHOE YACHT HARBOR LLC, a California  
limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A

(Description of the Property)

All that real property in the County of Placer, State of California, described as follows:

**[Description of Garage Parcel, not just foot print of garage]**

EXHIBIT B

Memorandum of Dedication Agreement

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Redevelopment Agency of Placer County  
3091 County Center Drive, Suite 260  
Auburn, CA 95603  
Attn: Deputy Director, Redevelopment

MEMORANDUM OF DEDICATION AGREEMENT

This Memorandum of Dedication Agreement ("Memorandum") is entered into as of the \_\_\_ day of \_\_\_\_\_, 2006, by and between Redevelopment Agency of Placer County, a public body corporate and politic (the "Agency"), and Tahoe Yacht Harbor LLC, a California limited liability company (the "Dedicator"), with respect to that certain Dedication Agreement and Escrow Instructions ("Agreement") of even date herewith between Agency and Dedicator.

Pursuant to the Agreement, Dedicator has granted to Agency the right, on the terms and conditions stated in the Agreement, to acquire a fee interest in the land located in the County of Placer, California, which is more particularly described in Exhibit A attached hereto, and incorporated herein by this reference and the improvements thereon. This Memorandum shall incorporate all of the terms and provisions of the Agreement as though fully set forth herein.

This Memorandum may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Agreement, of which this is a memorandum.

REDEVELOPMENT AGENCY OF PLACER COUNTY, a public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

TAHOE YACHT HARBOR LLC, a California limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

**[ALL SIGNATURES ARE TO BE NOTARIZED]**

EXHIBIT A

(Description of the Property)

All that real property in the County of Placer, State of California, described as follows:

**[Description of Garage Parcel, not just foot print of garage]**

EXHIBIT C

Disclosure of notices of code violation, legal actions or proceedings pending or threatened against the Property or notices received by Dcdicator with respect to future proceedings or affecting the Property or concerning toxic or hazardous materials

NONE

EXHIBIT D

Disclosure of physical conditions, including toxic or hazardous materials, and other conditions (including information regarding insurance and property taxes and assessments)

Asbestos located in existing structure on Property

