

**MEMORANDUM
DEPARTMENT OF FACILITY SERVICES
COUNTY OF PLACER**

To: **BOARD OF SUPERVISORS**

Date: **OCTOBER 23, 2007**

From: **JAMES DURFEE / ALBERT RICHIE** 

Subject: **LEASE AMENDMENT – DUTCH FLAT SWIMMING POOL**

ACTION REQUESTED / RECOMMENDATION: Authorize the Chairman to execute Amendment No. 1 to Lease Agreement 11645 between the County of Placer and the Dutch Flat Swimming Pool, Inc., to add a mutual termination clause as required for State Grant funds.

BACKGROUND: On April 8, 2003, your Board approved a twenty-year lease between the County and Dutch Flat Swimming Pool, Inc. for facilities comprised of a swimming pool, storage building and changing facilities located at 1045 Mattell Drive in Dutch Flat, CA. This Agreement allows the Department of Facility Services Parks Division to provide a swimming pool and recreation facility to the public during the summer months.

On July 24, 2001, your Board authorized the Department of Facility Services to apply for grant funds from the State of California Parks Bond Act of 2000, and to execute all necessary documents required to secure the funding. On September 17, 2001, the County entered into Contract Number C2003602 with State Parks for \$864,000 of grant funds under the 2000 Per Capita Grant Program. Of this amount, the Parks Division subsequently spent \$15,886 for fencing improvements at the Dutch Flat swimming pool.

The State Parks and Recreation Department recently notified the County Parks Division that its Lease Agreement with Dutch Flat Swimming Pool, Inc. must include mutual revocability language to be compliant with the grant requirements. To collect State grant funds for fencing improvements made at the swimming pool facility, your Board must authorize the Chairman to execute Amendment No. 1 to Lease Agreement 11645.

ENVIRONMENTAL CLEARANCE: The lease of this facility is Categorically Exempt from review pursuant to Section 15301 of the California Environmental Quality Act. This Section provides for activities, including leasing of existing facilities, when there is no expansion of use beyond that previously existing.

FISCAL IMPACT: With your Board's action, the County Parks Division will satisfy the State Parks grant program requirements allowing the collection of \$15,886 to reimburse the County for improvements made to the Dutch Flat Swimming Pool facility.

JD/AR/MR/Im

ATTACHMENTS: LEASE AMENDMENT NO. 1

cc: COUNTY EXECUTIVE OFFICE

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AGREEMENT: Contract No. 11645

AMENDMENT NO: 1

DESCRIPTION: AMENDMENT NO. 1 MODIFYING THE TERM OF THE AGREEMENT BETWEEN THE COUNTY OF PLACER AND DUTCH FLAT SWIMMING POOL, INC. FOR USE OF THE DUTCH FLAT SWIMMING POOL LOCATED AT 1045 MATTELL DRIVE, DUTCH FLAT, CALIFORNIA

WHEREAS, the County of Placer (hereinafter "COUNTY") and the Dutch Flat Swimming Pool, Inc., a California corporation (hereinafter "CORPORATION") have entered into an agreement to lease real property together with all improvements thereon, consisting of a swimming pool, a storage building, and changing facilities (hereinafter, the "FACILITIES AND PROPERTY") located at 1045 Mattell Drive, Dutch Flat, California pursuant to the Agreement titled Contract No. 11645, (hereinafter "AGREEMENT"); and

WHEREAS, the COUNTY has received a grant from the State of California 2000 Parks Bond Act – 2000 Parks Bond Act Per Capita Program (hereinafter the "GRANT") in the amount of Fifteen Thousand Eight Hundred Eighty-Six and No/100 Dollars (\$15,886.00), to fund the installation of fencing around the Dutch Flat Swimming Pool; and,

WHEREAS, this State GRANT has required the Term of the Lease to be revised to provide all parties named in the lease the right or opportunity to terminate the lease for agreed-upon reasons; and,

NOW, THEREFORE, IT IS MUTALLY AGREED by and between the parties herein to amend the Agreement as follows:

1. Section 6 of the Agreement is hereby amended and restated in its entirety as follows:

"6. This Agreement shall be effective for a period of twenty (20) years commencing on the 8th day of April 2003, and continuing automatically each year thereafter.

- A. This Agreement is revocable only by mutual agreement of the parties. The Agreement may be revoked for cause or for agreed upon terms, if also agreed upon by the State such that the COUNTY will not be in default of its contract with the State. Should the parties desire to revoke this Agreement, the party desiring to terminate must give the other party sixty (60) days advance written notice.
- B. Pursuant to the GRANT, the COUNTY must ensure the ongoing maintenance and use of the FACILITIES AND PROPERTY for recreational uses. As such, the parties shall ensure that public access will be in accordance with the intent and provisions of the GRANT. Therefore, if the parties disagree with the use of the

FACILITIES AND PROPERTY, the parties will meet in a cooperative fashion to resolve the issues.

- C. If the COUNTY breaches this Agreement or otherwise defaults on maintaining the FACILITIES AND PROPERTY pursuant to the GRANT requirements, the CORPORATION shall have the option to assume responsibility for operating the FACILITIES AND PROPERTY to the extent necessary to ensure that GRANT requirements are met. The parties agree that this will include a non-revocable lease, which is non-remunerative, between the COUNTY and the CORPORATION for the remaining years of the GRANT obligation.
 - D. Upon completion of this Agreement, the COUNTY and the CORPORATION may renew this Agreement upon mutual agreement of the parties."
- 2. Except as specifically modified herein, all terms and conditions contained in the original Agreement and any previous amendment(s) and addendum(s) between COUNTY and CORPORATION shall remain in full force and effect.
 - 3. The provisions of this Amendment No. 1 shall be effective upon completion of improvements.

IN WITNESS WHEREOF, the parties have duly executed this Amendment No. 1 to Contract No. 11645, as to the date of execution by the COUNTY.

**PLACER COUNTY
BOARD OF SUPERVISORS**

By: _____
CHAIRMAN

Date: _____

CORPORATION: DUTCH FLAT SWIMMING POOL, INC.

By: *Donald C. Fawcett*
PRESIDENT

Date: SEPT. 23, 2007

By: *Nancy Daily*
SECRETARY

Date: SEPT. 23, 2007

APPROVED AS TO FORM:

By: *[Signature]*
COUNTY COUNSEL

Date: 9/25/07