

## **MEETING NOTICE AND AGENDA**

### **REGULAR MEETING OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER MADERA REDEVELOPMENT AGENCY**

**Monday, June 16, 2014**

**9:00 a.m. – Regular Session**

City of Madera - City Hall Council Chambers  
205 West Fourth Street, Madera, California

#### **1. CALL TO ORDER – REGULAR SESSION**

##### **ROLL CALL**

**Gary Svanda, Chairperson**

(Representing the Madera City Council)

**Stell Manfredi, Vice-Chairperson**

(Representing a Member of the Public at Large)

**Ric Arredondo, Board Member**

(Representing the Chancellor of Community Colleges)

**Manuel Nevarez, Board Member**

(Representing the Madera County Board of Supervisors)

**Donald Horal, Board Member**

(Representing the Madera County Mosquito & Vector Control District)

**Cecilia Massetti, Ed.D., Board Member**

(Representing the Madera County Superintendent of Schools)

**Bob Wilson, Board Member**

(Representing Former Madera Redevelopment Agency Employees)

##### **PLEDGE OF ALLEGIANCE**

##### **PUBLIC COMMENT**

The first fifteen minutes of the meeting are reserved for members of the public to address the Board on items which are within the subject matter jurisdiction of the Board. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Chairperson has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Board is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Board does not respond to public comment at this time.

#### **2. CONSENT CALENDAR**

**2.1** Minutes of the Regular Meeting of the Oversight Board for February 18, 2014

#### **3. PRESENTATIONS/ADMINISTRATIVE REPORTS**

**3.1** Consideration of a Resolution Approving an Amendment to Agreement Between North Star Engineering Group Inc., and The Successor Agency of The Former Madera Redevelopment Agency For Engineering Services Related to the Southwest Industrial Park Project

**3.2** Consideration of a Resolution Approving the Transfer of Title to 300 South G Street to the County of Madera

**3.3** Consideration of a Resolution Approving an Amendment to the Development and Disposition Agreement with Ironhorse Elm LLC

4. **NEW BUSINESS**

There are no items for this section.

5. **GENERAL**

There are no items for this section.

6. **BOARD MEMBER REPORTS**

7. **ADJOURNMENT**

The next Regular Meeting date of the Oversight Board is Monday, July 14, 2014.

*The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices, or translators needed to assist participation in this public meeting should be made at least seventy two (72) hours prior to the meeting. Please call the Human Resources Office at (559) 661-5401. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service.*

*Any writing related to an agenda item for the open session of this meeting distributed to the Board less than 72 hours before this meeting is available for inspection at the Successor Agency office located at 428 East Yosemite Avenue, Madera California 93638 during normal business hours.*

*Para asistencia en Español sobre este aviso, por favor llame al (559) 661-5082.*

I, Claudia Mendoza, Recording Secretary, declare under penalty of perjury that I posted the above Meeting Agenda of the Regular Meeting of the Oversight Board of the Successor Agency to the former Madera Redevelopment Agency for Monday, June 16, 2014 at 9:00 a.m. in the Council Chambers at City Hall near the front entrances of City Hall before the close of business on Thursday, June 12, 2014.

  
\_\_\_\_\_  
Claudia Mendoza, Recording Secretary

/cm



**REGULAR MEETING OF THE  
OVERSIGHT BOARD OF THE SUCCESSOR AGENCY  
TO THE FORMER MADERA REDEVELOPMENT AGENCY**

**Tuesday, February 18, 2014**

**9:00 a.m. – Regular Session**

City of Madera City Hall – Council Chambers  
205 West Fourth Street, Madera, California

**Action/Summary Minutes**

**1. CALL TO ORDER – REGULAR SESSION**

Meeting called to order by Chairperson Svanda at 9:00 a.m.

**ROLL CALL**

**Board Members Present:**

Gary Svanda, Chairperson  
Stell Manfredi, Vice-Chairperson  
Bob Wilson, Board Member  
Max Rodriguez, Board Member  
Ric Arredondo, Board Member

**Board Members Absent:**

Cecilia Massetti, Ed.D, Board Member  
Donald Horal, Board Member

**Successor Agency Staff Members Present:**

Executive Director James Taubert and Recording Secretary Claudia Mendoza

The Pledge of Allegiance was led by Vice-Chairperson Manfredi.

**PUBLIC COMMENT**

The first fifteen minutes of the meeting are reserved for members of the public to address the Board on items which are within the subject matter jurisdiction of the Board. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Chairperson has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Board is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Board does not respond to public comment at this time.

*Chairperson Svanda opened the public comment portion of the meeting. There being no comments offered, the public comment portion of the meeting was closed.*

**2. CONSENT CALENDAR**

**2.1 Minutes of the Regular Meeting of the Oversight Board for January 13, 2014**

**Action:** Approval of the Consent Calendar item as presented.

**Moved by:** Board Member Rodriguez; seconded by Board Member Manfredi.

**Vote:** 5/0. Ayes: Board Members Svanda, Manfredi, Wilson, Rodriguez, and Arredondo.

Noes: None

Absent: Board Members Massetti and Horal.

**3. PRESENTATIONS/ADMINISTRATIVE REPORTS**

**3.1 Consideration of a Resolution Adopting the Madera Recognized Obligation Payment Schedule 14-15A (ROPS) Representing the Period July 1, 2014 to December 31, 2014**

**Summary of staff report:**

Executive Director Taubert presented the staff report stating that from this ROPS forward, the only thing that we will have in there is debt payment and the allowable \$250,000 admin fee. He also mentioned that we still have not resolved our dispute from the last ROPS. The Department of Finance has agreed to allow us to move forward on the bond funded projects, which they had no basis to deny anyway. They still have not approved our Long Range Property Management Plan that was submitted in July 2013. We have had no conversations with them on that since November 2013. This ROPS and any future ROPS, the only thing we are asking is to make our debt payment.

Discussion followed.

**Action:** Adopted Resolution No. OB 14-02, approving the Recognized Obligation Payment Schedule 14-15A (ROPS) for Fiscal Year 2014-2015 representing the period July 1, 2014 to December 31, 2014.

**Moved by:** Board Member Manfredi; seconded by Board Member Arredondo.

**Vote:** 5/0. Ayes: Board Members Svanda, Manfredi, Wilson, Rodriguez, and Arredondo.

Noes: None

Absent: Board Members Massetti and Horal.

**3.2 Consideration of a Resolution Approving the Administrative Budget of the Successor Agency for the Period July 1, 2014 – December 31, 2014**

**Summary of staff report:**

Executive Director Taubert presented a staff report noting that the State allows us \$250,000 a year for administrative costs, which equates to \$125,000 each six month ROPS period. Other money we use to fund admin is housing money, bond proceeds, and a number of grants that we are implementing. This does not change; it is the same every six months.

Discussion followed.

**Action:** Adopted Resolution No. OB 14-03, approving the Administrative Budget of the Successor Agency for the period July 1, 2014 to December 31, 2014.

**Moved by:** Board Member Manfredi; seconded by Board Member Rodriguez.

**Vote:** 5/0. Ayes: Board Members Svanda, Manfredi, Wilson, Rodriguez, and Arredondo.

Noes: None

Absent: Board Members Massetti and Horal.

**4. NEW BUSINESS**

There are no items for this section.

**5. GENERAL**

There are no items for this section.

**6. BOARD MEMBER REPORTS**

Board Member Arredondo asked when the anticipated time period that the dissolution will be complete. Executive Director Taubert responded that redevelopment activities will discontinue as soon as the bond proceeds are spent and the land is disposed of.

No other reports were offered.

**7. ADJOURNMENT**

The meeting was adjourned at 9:12 a.m.

Respectfully submitted by,

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Claudia Mendoza, Recording Secretary

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Gary Svanda, Chairperson

/cm

**REPORT TO THE OVERSIGHT BOARD  
OF THE SUCCESSOR AGENCY TO THE FORMER  
MADERA REDEVELOPMENT AGENCY**

**BOARD MEETING OF:** June 16, 2014  
**AGENDA ITEM NUMBER:** 3.1

**APPROVED BY:**

  
\_\_\_\_\_  
Executive Director

**Subject:** Consideration of a Resolution Approving an Amendment to Agreement Between North Star Engineering Group Inc., and The Successor Agency of The Former Madera Redevelopment Agency For Engineering Services Related to the Southwest Industrial Park Project

**Summary:** The Oversight Board will consider a resolution approving an amendment to agreement with NorthStar Engineering Group, Inc. in an amount not to exceed \$6,410.00

**HISTORY/BACKGROUND**

By previous action, the former Redevelopment Agency contracted with NorthStar Engineering Group Inc to prepare an infrastructure master plan for the Southwest Industrial Park. The project was approved as an "Enforceable Obligation" by the Oversight Board and Department of Finance. The Agreement will be funded with Bond Proceeds from ROPS 13-14B line item 48.

**SITUATION**

The addition of a railroad crossing at Massetti Drive will potentially result in the closing of crossings in other areas along the spur. The proposed Agreement will provide additional analysis on the impact of these closings.

**This action is subject to approval of the Oversight Board and Department of Finance.**

**RECOMMENDATION**

Staff recommends the Oversight Board adopt the resolution approving the Agreement with NorthStar Engineering Group, Inc.

JET:cm

Attachments:

- Resolution
- Agreement
- NorthStar Contract Exhibit

RESOLUTION NO. OB 14-04

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE FORMER MADERA REDEVELOPMENT AGENCY OF THE CITY OF MADERA, CALIFORNIA APPROVING A SECOND AMENDMENT TO AGREEMENT WITH NORTHSTAR ENGINEERING GROUP INC., FOR ENGINEERING SERVICES RELATED TO THE SOUTHWEST INDUSTRIAL PARK PROJECT

WHEREAS, the Successor Agency of the Former Madera Redevelopment Agency is in need of engineering services in its efforts to finish the Southwest Industrial Park Project, hereinafter referred to as the "Project"; and

WHEREAS, NorthStar is a firm that is qualified to provide professional engineering services; and

WHEREAS, the Successor Agency of the Former Madera Redevelopment Agency desires to add additional services to the original contract; and

WHEREAS, the Successor Agency of the Former Madera Redevelopment Agency has prepared a Second Amendment to Agreement with NorthStar for the additional design and engineering work needed for the Southwest Industrial Park Project (the "Agreement") and such Second Amended Agreement is on file in the office of the Executive Director of the Successor Agency of the Former Madera Redevelopment Agency and referred to for more particulars.

NOW, THEREFORE, THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE FORMER MADERA REDEVELOPMENT AGENCY hereby finds, determines, resolves and orders as follows:

1. The above recitals are true and correct.
2. The Oversight Board has reviewed and considered the proposed Agreement as presented by the Successor Agency to the former Madera Redevelopment Agency.
3. The proposed Agreement as presented by the Successor Agency to the former



Madera Redevelopment Agency is hereby approved.

4. This resolution is effective immediately upon adoption.

\* \* \* \* \*

PASSED AND ADOPTED by the Oversight Board to the Successor Agency to the former Madera Redevelopment Agency of the City of Madera this 16<sup>th</sup> day of June, 2014, by the following vote:

AYES:

NOES:

ABSENT:

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Gary Svanda, Chairperson

ATTEST:  
Recording Secretary

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SECOND AMENDMENT TO AGREEMENT BETWEEN NORTH STAR ENGINEERING GROUP INC., AND THE SUCCESSOR AGENCY OF THE FORMER REDEVELOPMENT AGENCY FOR ENGINEERING SERVICES RELATED TO THE SOUTHWEST INDUSTRIAL PARK PROJECT

This Second Amendment to the previous agreement titled "Agreement Between NorthStar Engineering Group Inc., and The Madera Redevelopment Agency For Engineering Services Related to the Southwest Industrial Park Project" dated September 9, 2009, and subsequently amended on May 9, 2012, is made and entered into this 11<sup>th</sup> day of June 2014, by and between the Successor Agency of the Former Madera Redevelopment Agency, hereinafter called "Successor Agency," and NorthStar Engineering Group, Inc., hereinafter called "Engineer".

WITNESSETH:

WHEREAS, the Madera Redevelopment Agency and Engineer entered into an agreement dated September 9, 2009, and which was subsequently amended on May 9, 2012, to contract with Engineer to provide engineering services related to the Southwest Industrial Park Project (the "Agreement"); and

WHEREAS, Successor Agency and Engineer desire to modify said Agreement by adding certain new services in the Agreement in addition to services originally to be accomplished in the Agreement. The new services to be included are updated and additional reports for several streets in the preparation of a preliminary utility master plan for the 112 acre site, in the City of Madera.

NOW THEREFORE, it is hereby agreed that the Agreement between the parties is amended in the following particulars only:

Section 1. Paragraph "a" of the "Recitals" is amended to read as follows:

a. In an effort to improve the safety, function and aesthetic quality of the Redevelopment Project Area, the Agency has requested engineering services related to the Southwest Industrial Park Project, hereinafter together referred to as the "Project".

Section 2. Section 2.0 of the Agreement, "Obligations, Duties and Responsibilities of Engineer" is amended to read as follows:

2.0 Obligations, Duties and Responsibilities of Engineer. Obligations, Duties and Responsibilities of North Star. It shall be the duty, obligation and responsibility of North Star, in a skilled and professional manner, to perform, furnish and supply to the Agency the engineering and consulting services ("Services") required pertaining to the preparation of a Preliminary Utility Master Plan for the 112 acre Industrial Park site, as further described in the "Proposed Scope of Services", on Pages 4-22 of the "Preliminary Utility Master Plan Traffic and Circulation for 112 Acre Industrial Site, Madera CA", dated August 31, 2009, from North Star to Agency, attached hereto as "Exhibit A" and "Madera RDA 112 ACRE INDUSTRIAL PROJECT, Job 09-739, Estimate of Consulting Fees – Adjustments, attached hereto as "Exhibit B" and "Contract Amendment #2 Madera Redevelopment Agency Southwest Industrial Park" dated May 29, 2014, attached hereto as Exhibit "C" and each being incorporated herein as though fully set forth herein. This Agreement shall prevail should there be any discrepancies between "Exhibits A, B and C" and this Agreement.

Section 3. Section 3.1 of the Agreement "Fees." is amended to read as follows:

3.1 Fees - For all the work and services, including supplies and equipment, pertaining to the Project and required to be furnished by North Star to the Agency, Agency agrees to pay to North Star, and North Star agrees to accept as payment in full, compensation on a lump sum fee basis as indicated in "Exhibit A" in an amount not to exceed a total of \$136,287.00, and as set forth in "Exhibit B", in an amount not to exceed \$11,688.40, and as set forth in "Exhibit C" in an amount not to exceed \$6,410.00. It is understood and agreed to by both parties that all expenses incidental to Engineer's performance of services agreement will be actual cost reimbursement and are included in the basic fee.

Section 4. Section 3.2 of the Agreement "Monthly Progress Billings." is amended to read as follows:

3.2 Monthly Progress Billings - Engineer shall furnish Successor Agency with itemized progress billings for all services rendered and supplies furnished under Paragraph 2 hereof pertaining to any services to be paid for and based upon "Exhibits A, B and C" attached hereto and incorporated herein as though fully set forth. Such payments shall be due and payable by Successor Agency to Engineer within thirty (30) days after presentation of approved invoices to Agency.

Section 5. Exhibit "A" attached to this Amendment shall be added to and become a part of the original Agreement as Exhibit "C".

Section 8. All other provisions of the Agreement not inconsistent with this Amendment shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and through their respective officers duly authorized on the date first written above.

CITY OF MADERA AS SUCCESSOR  
AGENCY TO THE FORMER  
MADERA REDEVELOPMENT AGENCY

NORTHSTAR ENGINEERING GROUP,  
INC.

By: \_\_\_\_\_  
Robert L. Poythress, Mayor

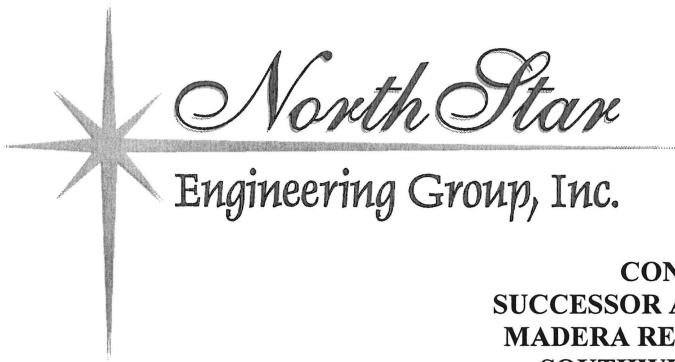
By: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Claudia Mendoza, Recording Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
J. Brent Richardson,  
General Counsel



**CONTRACT EXHIBIT  
SUCCESSOR AGENCY TO THE FORMER  
MADERA REDEVELOPMENT AGENCY  
SOUTHWEST INDUSTRIAL PARK  
JUNE 4, 2014**

**TASK 7.1 UPDATED AND ADDITIONAL TRAFFIC REPORT**

**Task 7.1a Conduct Traffic Counts and Determine Change in Traffic Volumes at Grade Crossings -** Daily traffic counts will be conducted over three days along Jennings Street, O Street, N Street, and O-N Alley intersections to determine 'typical' mid-week traffic volumes currently crossing the railroad tracks. A trip generation analysis will be revised for the expected uses of the Southwest Industrial Park.

**Task 7.1b Conduct Traffic Diagnostic -** A traffic diagnostic will be completed to determine whether additional time (advance preemption) is required beyond the simultaneous time provided for the clearance interval of the proposed traffic signal. The purpose of this analysis is to determine if advance preemption is required to move stationary vehicles out of the crossing before the arrival of the train. The Texas Department of Transportation Guide will be utilized as the basis for signal preemption requirements.

**Task 7.1c Prepare Pre-Design Traffic Exhibits / Geometrics -** Intersection layouts identifying the proposed street alignments will be prepared in conjunction with Civil Plans. Prepare pre-design level signing / striping exhibits for the closure. Prepare preliminary lane geometry including signing and striping and preliminary signal equipment types and locations for the proposed Massetti Drive crossing.

**LUMP SUM - \$6,410.00**

**Exclusions:**

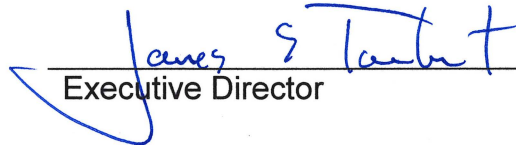
1. Agency Fees, Application Fees, and Permits.
2. Meetings not specified in approved Contract Amendment.
3. Geotechnical Reports.
4. Title Reports – Client to provide current Preliminary Title Report and copies of underlying documents.
5. Boundary and Topographic Surveys not specified.
6. Planning Exhibits and Plans not specified.
7. Legal Descriptions and Exhibit Plats.
8. Landscaping Requirements and Plans.
9. Architectural Requirements and Plans.
10. Off-Site Civil Improvement Plans and Traffic Plans.
11. Off-Site Engineering or Analysis.
12. On-Site Civil Improvement Plans and Traffic Plans.
13. Environmental Studies and CEQA Requirements.
14. Railroad Protective Liability Insurance.
15. Sound Studies.



# REPORT TO THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER MADERA REDEVELOPMENT AGENCY

BOARD MEETING OF: June 16, 2014  
AGENDA ITEM NUMBER: 3.2

APPROVED BY:

  
 Executive Director

**Subject: Consideration of a Resolution Approving the Transfer of Title to 300 South G Street to the County of Madera**

**Summary: The Oversight Board will consider a resolution transferring title to 300 South G Street to the County of Madera**

## HISTORY/BACKGROUND

By previous action, the former Redevelopment Agency entered into a Memorandum of Understanding with Madera County related to the courthouse relocation project. (Copies of the original MOU, two amended MOU's and purchase agreement are attached) The agreement related to the transfer of County-owned property to the former RDA. The agreement created an "Enforceable Obligation" of \$880,000.00, which is now the responsibility of the Successor Agency. The County has directed that this obligation be applied towards the acquisition of property to accommodate the future offices of the District Attorney and the Probation Department.

## SITUATION

From the outset, the Department of Finance has viewed this as an independent project as opposed to a component of an enforceable obligation with the County on the Courthouse Project. To that end, we transferred the remaining funds owed in March 2014. We assisted in negotiations, however, the agreements were placed on the County agenda for approval. The only element needed to completely satisfy the enforceable obligation is the transfer of 300 South G Street to the County.

## RECOMMENDATION

Staff recommends the Oversight Board adopt the resolution approving the transfer of title to 300 South G Street to the County of Madera.

JET:cm

Attachments:  
-Resolution

Courthouse Documents:  
-MOU – 8783-C-2008  
-MOU – 8783A-C-2009  
-Agmt for Purchase/Sale of Real Property – 8793-C-2009  
-MOU – 8837-C-2009

RESOLUTION NO. OB 14-05

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE FORMER MADERA REDEVELOPMENT AGENCY OF THE CITY OF MADERA, CALIFORNIA APPROVING THE CONVEYANCE OF REAL PROPERTY LOCATED AT THE 300 SOUTH "G" STREET IN THE CITY OF MADERA

WHEREAS, the Oversight Board approved the purchase of 300 South "G" by the Successor Agency to the Former Redevelopment Agency on March 18, 2013, by Resolution Number OB 13-04; and

WHEREAS, on April 15, 2013, the Oversight Board rescinded Resolution Number OB 13-04; and

WHEREAS, on April 15, 2013, the Oversight Board approved an Amended Sales Agreement by Resolution No. OB 13-07; and

WHEREAS, on May 28, 2013, the Department of Finance rejected the sale as an Enforceable Obligation and returned the item to the Oversight Board for reconsideration; and

WHEREAS, the Oversight Board reviewed the action taken on Resolution Number OB 13-07 at a regular meeting held on June 17, 2013; and

WHEREAS, on June 17, 2013, the Oversight Board upheld its approval on of Resolution Number OB 13-07; and

WHEREAS, on July 5, 2013, the Executive Director of Successor Agency to the Former Madera Redevelopment Agency executed all documents necessary for the purchase and sale of 300 South "G" Street; and

WHEREAS, the Successor Agency to the former Madera Redevelopment Agency (the 'Agency'), in fulfillment of a contractual obligation to the County of Madera has now offered to the County of Madera (the "County"), the property located 300 South "G" Street as part of the

Courthouse Project (the "Property"); and

WHEREAS, the Property is more specifically described in the Grant Deed on file in the office of the Executive Director of the Successor Agency for more particulars; and

WHEREAS, conveyance of the Property is consistent with the General Plan of the City of Madera.

NOW, THEREFORE, THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE FORMER MADERA REDEVELOPMENT AGENCY hereby finds, determines, resolves and orders as follows:

1. The above recitals are true and correct.
2. The Oversight Board has reviewed and considered the proposed reconveyance of 300 South "G" Street to the County of Madera as presented by the Successor Agency to the former Madera Redevelopment Agency.
3. The Grant Deed is file in the office of the Executive Director of the Successor Agency for more particulars
4. The proposed reconveyance of 300 South "G" Street as presented by the Successor Agency to the former Madera Redevelopment Agency is hereby approved.
5. This resolution is effective immediately upon adoption.

\* \* \* \* \*

MEMORANDUM OF UNDERSTANDING  
(Transfer of Real Property and Transactions Related to Construction of  
New Superior Court Facility at Madera, California)

(#1)

**THIS MEMORANDUM OF UNDERSTANDING ("MOU")** is entered into as of the 12<sup>th</sup> day of November 2008, by and among the COUNTY OF MADERA, a political subdivision of the State of California ("COUNTY"), and the CITY OF MADERA REDEVELOPMENT AGENCY, a public body, corporate and politic, ("CITY RDA"), also collectively referred to herein as the "PARTIES."

**RECITALS**

A. The purpose of this MOU is to facilitate the transfer, as set forth herein, certain real property as described below.

B. The Superior Court of the State of California, at Madera County, California, has received funding for construction of a new courthouse and related facilities in Madera County (Courthouse Project).

C. CITY RDA prefers that the Superior Court locate its Courthouse Project within the city limits of the City of Madera in the area generally referred to as downtown Madera.

D. COUNTY prefers that the Superior Court locate its Courthouse Project in the immediate vicinity of the County Government Center, at 200 West Fourth Street, and in the immediate vicinity of the present Superior Court facility, at 209 West Yosemite Avenue (Present Courthouse).

E. The Superior Court has considered various possible sites for construction of the Courthouse Project, and has identified a preferred site at the southeast corner of West Sixth Street and South 'H' Street (the "Sixth & 'H' Location").

F. The Sixth & 'H' Location is situated within the city limits of the City of Madera and is owned, in part, by the County of Madera.

G. Upon approval of the MOU by the PARTIES, the PARTIES shall implement the MOU by subsequent execution of documents and performance of such other acts of their respective



governing bodies and staff personnel, as are necessary to effect the provisions, purposes and intent of this MOU.

H. The real property transfers as set forth herein and as are the subject of this MOU, are acknowledged and declared by the PARTIES to be for public purposes.

### AGREEMENT

1. **TRANSFER OF COUNTY CENTRAL GARAGE PARCEL.** The PARTIES will enter into such further agreement(s), as necessary, whereby the COUNTY will transfer ownership to CITY RDA of the real property commonly known as the Central Garage parcel, situated at 221 South 'H' Street, Madera, California, and upon which parcel is also situated the former Information Technology/Environmental Health/Sheriff building, at 216 West Sixth Street, Madera, California, and which parcel is also identified as Assessor's Parcel Number (A.P.N.) 010-134-005-0 (Transfer Parcel). Transfer of the Transfer Parcel to the CITY RDA shall not occur until September 30, 2010.

1.01 CITY RDA will transfer the Transfer Parcel to the State of California Administrative Office of the Courts (State AOC) for the express purpose of construction of the Courthouse Project upon the Central Garage Parcel. COUNTY understands that construction of Courthouse Project will necessarily entail relocation of COUNTY's Central Garage operations to another location, which relocation COUNTY will undertake at no cost to CITY RDA or to the State AOC. County shall be solely responsible for any necessary environmental clean up of said Transfer Parcels in compliance with all federal and state laws.

1.02 CITY RDA's agreement with State AOC respecting Courthouse Project construction will expressly provide that neither the State AOC, State of California, Superior Court, nor any affiliated entity, will make or assert any claim of ownership to the improvements or parcel situated at 209 West Yosemite Avenue, Madera, California, and also identified as A.P.N. 010-092-001-0, after vacating such location, which vacation will occur not later than ninety (90) days after completion of construction of the Courthouse Project.

- 1.03 CITY RDA intends to construct a parking facility with a minimum two hundred fifty to three hundred (250 - 300) parking spaces, immediately adjacent to the new courthouse. CITY RDA shall negotiate with the AOC in good faith to ensure that said two hundred fifty to three hundred (250 - 300) space parking facility shall be completed simultaneously or no later than one (1) year from the issuance of the Certificate of Occupancy for the new courthouse. COUNTY shall not become obligated under this agreement to transfer property identified in paragraph 1.01 unless and until COUNTY is satisfied that the parking facility will be constructed.
- 1.04 CITY RDA will, at COUNTY'S sole option, expend funds in an amount equal to the appraised value at the time of transfer of the Transferred Parcel, with improvements, to either: demolish COUNTY's jail annex facility located in the historic Courthouse Park, 210 West Yosemite Avenue, Madera, California, or, renovate the former COUNTY Library building located at 135 West Yosemite Avenue, Madera, California. Both parties hereto shall bear fifty percent (50%) of the expenses of said appraisal. In the event that the appraised value is not adequate for either project, COUNTY, at its option, shall provide the additional funds for completion of the project or select another project consistent with CITY RDA five year implementation plan.
- 1.05 In the event that COUNTY decides to sell the Present Courthouse parcel, COUNTY grants to CITY RDA a right of first refusal to purchase the Present Courthouse parcel at its appraised value at the time of offer to purchase or at a price equal to a bonified offer to purchase, provided, however, that CITY RDA must ensure that the continued usage of the Present Courthouse parcel will remain and continue to be primarily a governmental institution usage for a period of twenty (20) years from the date of transfer. CITY RDA shall have ninety (90) days from the date of notification of potential sale of said property to exercise its rights under this section.

1.06 Contingent upon the agreement of the Veterans of Foreign Wars (VFW) to sell and relocate from their present facility, as identified below and pursuant to the terms provided herein below, COUNTY and CITY RDA agree to contribute an equal sum not to exceed One Hundred Thousand Dollars (\$100,000.00) each, or to provide property and city improvements in lieu of cash payments to facilitate relocation of the Veterans of Foreign Wars (VFW), from their present facility at 200 South 'G' Street, Madera, California, to another facility location to be determined. COUNTY has a reversionary interest in the present VFW facility, and will obtain a reversionary interest in any facility to which the VFW may relocate, by written agreement, the terms of which shall also provide for perpetual no-cost rental privileges for COUNTY, CITY RDA, City of Madera, and their affiliated entities at the new VFW facility.

2. **TRANSACTIONS COSTS.** Costs incurred with the carrying out of the above-referenced transactions, including but not limited to, escrow, title insurance, recording, and other costs and expenses will be shared equally among the PARTIES.

3. **COLLECTIVE ACTION.** Understanding that third party agreements must be executed to effect the purposes of this agreement, the PARTIES agree to work collectively so far as reasonably and legally possible to effectuate, accomplish and carry-out the terms and intent of this MOU.

4. **WAIVER OF FEES AND COSTS.** To the extent allowed by law, the PARTIES each agree not to impose, and to waive all fees and costs, otherwise imposable on the other party relating to the provisions contained in this MOU including, but not limited to, permit fees, and any other fees related to the above-referenced transactions, except as provided in Section 2 hereto.

5. **ASSIGNMENT.** Rights or obligations arising under the terms of this MOU may not be assigned by any party without the express written consent of both PARTIES.

6. **MODIFICATION.** This MOU may only be modified in writing duly executed and ratified by the PARTIES hereto.

7. **CONDITIONAL MOU.** This MOU contemplates the execution of subsequent agreements with third parties who are not bound by the terms of this agreement. This agreement shall be considered a conditional agreement between the PARTIES for the purposes of effectuating the execution of the anticipated subsequent agreements and to ensure that the parties to this agreement act in good faith to carry forward this intent. In the event that the AOC, the State of California, the City of Madera, City RDA or County of Madera are unable to reach an agreement necessary to effectuate the construction of a new courthouse and parking facility within the parameters of this agreement, any party hereto may withdraw from this agreement upon notice to the other party.

8. **BINDING EFFECT.** Except as provided in Section 7 and Section 9, this MOU shall be binding upon the heirs, representatives, and assigns of the PARTIES.

9. **SUBSEQUENT AGREEMENTS.** This MOU contemplates a series of legally enforceable agreements and/or actions to be entered into by the PARTIES including escrows, land use or transaction agreements, and related agreements which must be drafted and executed at later dates. This MOU contemplates all of the essential terms, conditions, rights, duties and obligations of the PARTIES which shall become binding upon execution and/or ratification as appropriate by COUNTY and CITY RDA as public agencies of each and all of the additional agreements referenced herein, provided each such referenced agreement is adopted in substantially the form and content contemplated by the PARTIES hereto.

10. **PEN AND INK CORRECTIONS.** Notwithstanding any provision herein, pen and ink corrections may be inserted and considered binding upon initialization by all PARTIES.

\* \* \* \* \*



IN WITNESS WHEREOF, the foregoing MOU is executed on the day and year first written above.

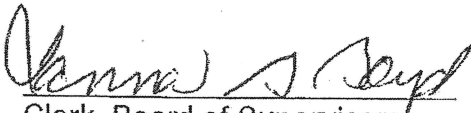
COUNTY OF MADERA

  
Chairman, Board of Supervisors

CITY OF MADERA  
REDEVELOPMENT AGENCY

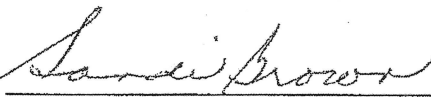
By:   
Sally J. Bompreszi, Chairperson

ATTEST:

  
Clerk, Board of Supervisors

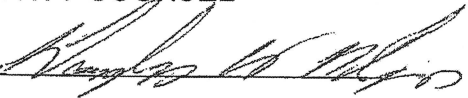


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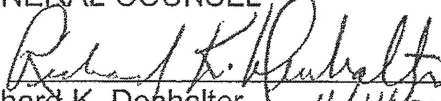
  
Sandi Brown, Agency Secretary



Approved as to Legal Form:  
COUNTY COUNSEL

By: 

Approved as to Legal Form:  
GENERAL COUNSEL

By:   
Richard K. Denhalter 11/14/08

ACCOUNT NUMBER(S)

\_\_\_\_\_  
\_\_\_\_\_

(#2)

MADERA COUNTY CONTRACT NO. 8783A-c-2009  
(Amended Memorandum of Understanding - Transfer of Real Property and  
Transactions Related to Construction of  
New Superior Court Facility at Madera, California)

**THIS MEMORANDUM OF UNDERSTANDING ("MOU")** is entered into as of the 17<sup>th</sup> day of March 2009, by and among the COUNTY OF MADERA, a political subdivision of the State of California ("COUNTY"), and the CITY OF MADERA REDEVELOPMENT AGENCY, a public body, corporate and politic, ("CITY RDA"), also collectively referred to herein as the "PARTIES."

**RECITALS**

A. The purpose of this MOU is to facilitate the transfer, as set forth herein, certain real property as described below.

B. The Superior Court of the State of California, at Madera County, California, has received funding for construction of a new courthouse and related facilities in Madera County (Courthouse Project).

C. CITY RDA prefers that the Superior Court locate its Courthouse Project within the city limits of the City of Madera in the area generally referred to as downtown Madera.

D. COUNTY prefers that the Superior Court locate its Courthouse Project in the immediate vicinity of the County Government Center, at 200 West Fourth Street, and in the immediate vicinity of the present Superior Court facility, at 209 West Yosemite Avenue (Present Courthouse).

E. The Superior Court has considered various possible sites for construction of the Courthouse Project, and has identified a preferred site at the southeast corner of West Sixth Street and South 'H' Street (the "Sixth & 'H' Location").

F. The Sixth & 'H' Location is situated within the city limits of the City of Madera and is owned, in part, by the County of Madera.

G. Upon approval of the MOU by the PARTIES, the PARTIES shall implement the MOU by subsequent execution of documents and performance of such other acts of their respective governing bodies and staff personnel, as are necessary to effect the provisions, purposes and intent of this MOU.

H. The real property transfers as set forth herein and as are the subject of this MOU, are acknowledged and declared by the PARTIES to be for public purposes.

### **AGREEMENT**

1. **TRANSFER OF COUNTY CENTRAL GARAGE PARCEL.** The PARTIES will enter into such further agreement(s), as necessary, whereby the COUNTY will transfer ownership to CITY RDA of the real property commonly known as the Central Garage parcel, situated at 221 South 'H' Street, Madera, California, and upon which parcel is also situated the former Information Technology/Environmental Health/Sheriff building, at 216 West Sixth Street, Madera, California, and which parcel is also identified as Assessor's Parcel Number (A.P.N.) 010-134-005-0 (Transfer Parcel). Transfer of the Transfer Parcel to the CITY RDA shall not occur until September 30, 2010.

1.01 CITY RDA will transfer the Transfer Parcel to the State of California Administrative Office of the Courts (State AOC) for the express purpose of construction of the Courthouse Project upon the Central Garage Parcel. COUNTY understands that construction of Courthouse Project will necessarily entail relocation of COUNTY's Central Garage operations to another location, which relocation COUNTY will undertake at no cost to CITY RDA or to the State AOC. County shall be solely responsible for any necessary environmental clean up of said Transfer Parcels in compliance with all federal and state laws.

1.02 CITY RDA's agreement with State AOC respecting Courthouse Project construction will expressly provide that neither the State AOC, State of

California, Superior Court, nor any affiliated entity, will make or assert any claim of ownership to the improvements or parcel situated at 209 West Yosemite Avenue, Madera, California, and also identified as A.P.N. 010-092-001-0, after vacating such location, which vacation will occur not later than ninety (90) days after completion of construction of the Courthouse Project.

- 1.03 In further consideration for the transfer of the real property described in Section 1, CITY RDA will construct a parking facility with a minimum of two hundred fifty to three hundred (250-300) parking spaces, immediately adjacent to the new courthouse. CITY RDA shall negotiate with the AOC to ensure that said two hundred fifty to three hundred (250 - 300) space parking facility will be completed simultaneously or no later than one (1) year from the issuance of the Certificate of Occupancy for the new courthouse. COUNTY shall not become obligated under this agreement to operate, fund, maintain or contribute to the acquisition of real property for, or for construction, of said parking facility.
- 1.04 CITY RDA will, at COUNTY'S sole option, expend funds in an amount equal to the appraised value at the time of transfer of the Transferred Parcel, with improvements, to either: demolish COUNTY's jail annex facility located in the historic Courthouse Park, 210 West Yosemite Avenue, Madera, California, or, renovate the former COUNTY Library building located at 135 West Yosemite Avenue, Madera, California. Both parties hereto shall bear fifty percent (50%) of the expenses of said appraisal. In the event that the appraised value is not adequate for either project, COUNTY, at its option, shall provide the additional funds for

completion of the project or select another project consistent with CITY RDA five year implementation plan.

1.05 In the event that COUNTY decides to sell the Present Courthouse parcel, COUNTY grants to CITY RDA a right of first refusal to purchase the Present Courthouse parcel at its appraised value at the time of offer to purchase or at a price equal to a bona fide offer to purchase, provided, however, that CITY RDA must ensure that the continued usage of the Present Courthouse parcel will remain and continue to be primarily a governmental institution usage for a period of twenty (20) years from the date of transfer. CITY RDA shall have ninety (90) days from the date of notification of potential sale of said property to exercise its rights under this section.

1.06 Contingent upon the agreement of the Veterans of Foreign Wars (VFW) to sell and relocate from their present facility, as identified below and pursuant to the terms provided herein below, COUNTY and CITY RDA agree to contribute an equal sum not to exceed One Hundred Thousand Dollars (\$100,000.00) each, or to provide property and city improvements in lieu of cash payments to facilitate relocation of the Veterans of Foreign Wars (VFW), from their present facility at 200 South 'G' Street, Madera, California, to another facility location to be determined. COUNTY has a reversionary interest in the present VFW facility, and will obtain a reversionary interest in any facility to which the VFW may relocate, by written agreement, the terms of which shall also provide for perpetual no-cost rental privileges for COUNTY, CITY RDA, City of Madera, and their affiliated entities at the new VFW facility.

2. **TRANSACTIONS COSTS.** Costs incurred with the carrying out of the above-referenced transactions, including but not limited to, escrow, title insurance, recording, and other costs and expenses will be shared equally among the PARTIES.

3. **COLLECTIVE ACTION.** Understanding that third party agreements must be executed to effect the purposes of this agreement, the PARTIES agree to work collectively so far as reasonably and legally possible to effectuate, accomplish and carry-out the terms and intent of this MOU.

4. **WAIVER OF FEES AND COSTS.** To the extent allowed by law, the PARTIES each agree not to impose, and to waive all fees and costs, otherwise imposable on the other party relating to the provisions contained in this MOU including, but not limited to, permit fees, and any other fees related to the above-referenced transactions, except as provided in Section 2 hereto.

5. **ASSIGNMENT.** Rights or obligations arising under the terms of this MOU may not be assigned by any party without the express written consent of both PARTIES.

6. **MODIFICATION.** This MOU may only be modified in writing duly executed and ratified by the PARTIES hereto.

7. **CONDITIONAL MOU.** This MOU contemplates the execution of subsequent agreements with third parties who are not bound by the terms of this agreement. This agreement shall be considered a conditional agreement between the PARTIES for the purposes of effectuating the execution of the anticipated subsequent agreements and to ensure that the parties to this agreement act in good faith to carry forward this intent. In the event that the AOC, the State of California, the City of Madera, City RDA or County of Madera are unable to reach an agreement necessary to effectuate the construction of a new courthouse and parking facility within the



parameters of this agreement, any party hereto may withdraw from this agreement upon notice to the other party.

8. **BINDING EFFECT.** Except as provided in Section 7 and Section 9, this MOU shall be binding upon the heirs, representatives, and assigns of the PARTIES.

9. **SUBSEQUENT AGREEMENTS.** This MOU contemplates a series of legally enforceable agreements and/or actions to be entered into by the PARTIES including escrows, land use or transaction agreements, and related agreements which must be drafted and executed at later dates. This MOU contemplates all of the essential terms, conditions, rights, duties and obligations of the PARTIES which shall become binding upon execution and/or ratification as appropriate by COUNTY and CITY RDA as public agencies of each and all of the additional agreements referenced herein, provided each such referenced agreement is adopted in substantially the form and content contemplated by the PARTIES hereto.

10. **PEN AND INK CORRECTIONS.** Notwithstanding any provision herein, pen and ink corrections may be inserted and considered binding upon initialization by all PARTIES.

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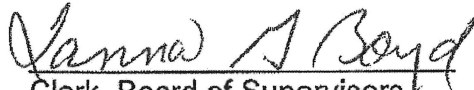
\* \* \* \* \*

IN WITNESS WHEREOF, the foregoing MOU is executed on the day and year first written above.

COUNTY OF MADERA

  
Chairman, Board of Supervisors

ATTEST:

  
Clerk, Board of Supervisors

Approved as to Legal Form:  
COUNTY COUNSEL

By: 

ACCOUNT NUMBER(S)

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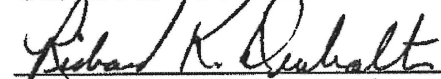
CITY OF MADERA  
REDEVELOPMENT AGENCY

By:   
Sam Armentrout, Chairperson

ATTEST:

  
Sandi Brown, Agency Secretary

Approved as to Legal Form:  
GENERAL COUNSEL

By:   
Richard K. Denhalter 3/12/09



## AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS

County of Madera, hereinafter called the "Seller," without regard to number or gender, hereby agrees to sell to the MADERA REDEVELOPMENT AGENCY, a public body, corporate and politic, hereinafter called the "Agency," the real property described in Exhibit "A" attached hereto and incorporated herein by reference, referred to herein variously as the "Transferred Parcel" and as the "Subject Property".

Seller and Agency have previously entered into a Memorandum of Understanding (Transfer of Real Property and Transactions Related to Construction of New Superior Court Facility at Madera, California) dated November 12, 2008, consisting of six (6) pages, and also designated as Madera County Contract No. 8783-C-2008 (hereinafter, "MOU"), a copy of which is attached hereto, as Exhibit "B" and incorporated herein by reference. It is the express intention of Seller and Agency that each and every term and condition of the MOU shall become a term and condition of this Agreement, and shall be conditions precedent to closing of any escrow described herein.

1. The purchase price for the Subject Property shall be, at County's sole option, funds expended in an amount equal to the appraised value at the time of transfer of the Transferred Parcel, with improvements, to either: demolish County's jail annex facility located in the historic Courthouse Park, 210 West Yosemite Avenue, Madera, California, or, renovate the former County Library building located at 135 West Yosemite Avenue, Madera, California. Both parties hereto shall bear fifty percent (50%) of the expenses of said appraisal. In the event that the appraised value is not adequate for either project, County, at its option, shall provide the additional funds for completion of the project or select another project consistent with Agency's five year implementation plan as just compensation therefor.

2. Seller warrants that the Subject Property has been offered for sale and that it is not being acquired under threat of condemnation.

3. Seller represents and warrants that they have the authority to make the agreement herein made, and that they hold fee title to the Subject Property.

4. The sale shall be completed through an escrow to be opened by Chicago Title Company, 1653 North Schnoor Avenue, Suite 107, Madera, CA 93637 (the "Title Company"). Said escrow shall be opened upon the following terms and conditions, and Seller and Agency by their signature to this Agreement make this section their escrow instructions:

a. It is the intent of the parties to this Agreement that the Seller will place into escrow a grant deed to the Subject Property in favor of the Agency. The Agency will place into escrow, funds in the amount of the Purchase Price and any costs to be paid by the Agency.

b. The escrow fee, cost of policy of title insurance, recording fees (if any), and all other closing costs shall be paid by Agency. Seller will pay any cost to clear the title to the Subject Property prior to the recording of the grant deed conveying the property to the Agency as well as any real estate agent's commission.

c. Agency shall deposit the sums specified in Paragraph 1 of this Agreement together with an amount equal to its share of the closing costs in escrow upon receipt of a

demand and statement from Title Company therefor.

d. Seller shall deposit a duly executed grant deed sufficient to convey to Agency marketable fee simple title to the Subject Property free and clear of all recorded and unrecorded deeds of trusts, liens, encumbrances, assessments, easements, leases, and taxes EXCEPT:

(1). Quasi-public utility, public alley, public street easements, and rights of way of record.

e. Property taxes for the current fiscal year that are not yet due and have not yet been paid shall be prorated to close of escrow. It is understood that Seller shall be responsible for the payment of all current, delinquent and unpaid taxes, penalties, redemptions, and costs allocable to the Subject Property for all periods prior to close of escrow. Any taxes which have been paid by Seller, prior to opening of this escrow, shall not be prorated between Buyer and Seller, but Seller shall have the sole right, after close of escrow, to apply to the county Tax Collector of said county for refund. This refund would apply to the period after Agency's acquisition, pursuant to Revenue and Taxation Code Section 5096.7.

f. Disbursements to be in the amounts, at the times, and in all respects in accordance with the terms and conditions and subject to the limitations of this Agreement.

g. Seller shall provide a duly executed grant deed and Agency shall submit to Title Company the amounts required to be paid by Agency, and Title Company shall record the grant deed in favor of the Agency no later than September 1, 2010. Should a party not be able to comply with the terms of this Agreement and escrow instructions and the property is not conveyed within said period of time, a fifteen day extension for compliance with the terms of escrow may be granted by the other party hereto. Such extension in order to be effective must be in writing and filed with the Title Company before the expiration of the time of performance and terms of escrow required herein.

5. Seller shall vacate the property immediately upon close of escrow and Agency shall have the immediate right of possession of such property.

6. Seller warrants that, excepting the Superior Court of the State of California, there are no tenants on the Subject Property pursuant to any lease agreement or on a month to month tenancy.

7. Seller hereby grants to Agency, or its authorized agents, permission to enter upon the Subject Property, excepting that portion of the Subject Property occupied by the Superior Court of the State of California, at all reasonable times prior to close of escrow for the purpose of making necessary or appropriate inspections.

8. Loss or damage to the Subject Property or any improvements thereon, by fire or other casualty, occurring prior to the recordation of the Deed shall be at the risk of Seller. In the event that loss or damage to the Subject Property or any improvements thereon, by fire or other casualty, occurs prior to the recordation of the Deed, Agency may elect to require that the Seller pay to Agency the proceeds of any insurance which may become payable to Seller by reason

thereof, or to permit such proceeds to be used for the restoration of the damage done, or to reduce the total price by an amount equal to the diminution in value of the Subject Property by reason of such loss or damage or the amount of insurance payable to Seller, whichever is greater.

9. To the best of Seller's knowledge, without Seller having conducted any investigation or analysis, the Subject Property complies with all applicable laws and governmental regulations including, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including but not limited to, the Clean Water, Clean Air, Federal Water Pollution Control, Solid Waste Disposal, Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts, and the California Environmental Quality Act, and the rules regulations, and ordinances of the city within which the Subject Property is located, the California Department of Health Service, the Regional Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection Agency, and all applicable federal, state, and local agencies and bureaus.

10. Seller hereby warrants, represents and/or covenants to Agency that:

a. To the best of Seller's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Subject Property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.

b. To the best of Seller's knowledge, there are no encroachments onto the Subject Property by improvements on any adjoining property, nor do any buildings or improvements encroach on other properties.

c. Until the closing, Seller shall maintain the Subject Property in good condition and state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the Subject Property.

d. Until the closing, Seller shall not do anything which would impair Seller's title to any of the Subject Property.

e. To the best of Seller's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument to which the Subject Property may be bound.

f. Until the closing, Seller shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Warranties, Representations, and Covenants of Seller Section not to be true as of closing, immediately give written notice of such fact or condition to Agency.

11. Agency acknowledges it is purchasing the Subject Property as is and Seller does not warrant that the Subject Property is free from any hazardous materials.

12. Time is of the essence of each and every term, condition, and covenant hereof.

13. It is understood and agreed that upon the execution of this Agreement, it shall become a contract for the purchase and sale of real property binding upon Seller and Agency, their heirs, executors, administrators, successors in interest, and assigns.

APPROVED AS TO FORM:

Date: January 16, 2009

[Signature]  
General Counsel

Seller: County of Madera

By: [Signature]  
Max Rodriguez, Chairman

This Agreement is executed by the Agency, by and through the Chairperson of the Madera Redevelopment Agency pursuant to the authority granted by the Agency on January 14, ~~2008~~ 2009.

Date: January 16, 2009

ATTEST:  
SANDI BROWN  
Agency Secretary

By: [Signature]

MADERA REDEVELOPMENT AGENCY

By: [Signature]  
Sam Armentrout, Chairperson

ATTACH NOTARY ACKNOWLEDGMENTS





# EXHIBIT “A”

## LEGAL DESCRIPTION

### EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

#### PARCEL 1:

Lots 25 and 26 and the Northeasterly 100 feet of Lots 27, 28, 29, 30, 31 and 32 in Block 9 of Hughes Addition to the Town (now City) of Madera, according to the map entitled, "Map of Lankershim Colony and Addition to the Town of Madera etc.", according to the map thereof recorded in Book 4, Page 31 of Maps, Madera County Records.

#### PARCEL 2:

The Southwesterly 50 feet of Lots 27 to 32 inclusive, in Block 9 of Hughes Addition to the City of Madera, according to map entitled, "Map of Lankershim Colony and Addition to the Town of Madera &c.", filed for record in the office of the County Recorder of Fresno County, California, February 5, 1889 in Book 4 of Maps at page 31.

#### PARCEL 3:

Lots 17, 18, 19, 20, 21 and 22 in Block 9 of Hughes Addition to the Town, now City of Madera, according to the map entitled, "Map of Lankershim Colony and Addition to the Town of Madera, etc.", filed and recorded in the office of the County Reorder of the County of Fresno, State of California, February 3, 1899 in Book 4 of Maps, at page 31.

#### PARCEL 4:

Lots 23 and 24 in Block 9 of Hughes Addition to the Town, now City of Madera, according to the map entitled, "Map of Lankershim Colony and Addition to the Town of Madera, &c.", filed and recorded in the office of the County Reorder of the County of Fresno, State of California, February 3, 1899 in Book 4 of Maps, Page 31.

APN: 010-134-005

# **EXHIBIT “B”**

**MEMORANDUM OF UNDERSTANDING**  
(Transfer of Real Property and Transactions Related to Construction of  
New Superior Court Facility at Madera, California)

**THIS MEMORANDUM OF UNDERSTANDING ("MOU")** is entered into as of the 12<sup>th</sup> day of November 2008, by and among the COUNTY OF MADERA, a political subdivision of the State of California ("COUNTY"), and the CITY OF MADERA REDEVELOPMENT AGENCY, a public body, corporate and politic, ("CITY RDA"), also collectively referred to herein as the "PARTIES."

**RECITALS**

A. The purpose of this MOU is to facilitate the transfer, as set forth herein, certain real property as described below.

B. The Superior Court of the State of California, at Madera County, California, has received funding for construction of a new courthouse and related facilities in Madera County (Courthouse Project).

C. CITY RDA prefers that the Superior Court locate its Courthouse Project within the city limits of the City of Madera in the area generally referred to as downtown Madera.

D. COUNTY prefers that the Superior Court locate its Courthouse Project in the immediate vicinity of the County Government Center, at 200 West Fourth Street, and in the immediate vicinity of the present Superior Court facility, at 209 West Yosemite Avenue (Present Courthouse).

E. The Superior Court has considered various possible sites for construction of the Courthouse Project, and has identified a preferred site at the southeast corner of West Sixth Street and South 'H' Street (the "Sixth & 'H' Location").

F. The Sixth & 'H' Location is situated within the city limits of the City of Madera and is owned, in part, by the County of Madera.

G. Upon approval of the MOU by the PARTIES, the PARTIES shall implement the MOU by subsequent execution of documents and performance of such other acts of their respective

governing bodies and staff personnel, as are necessary to effect the provisions, purposes and intent of this MOU.

H. The real property transfers as set forth herein and as are the subject of this MOU, are acknowledged and declared by the PARTIES to be for public purposes.

#### **AGREEMENT**

1. **TRANSFER OF COUNTY CENTRAL GARAGE PARCEL.** The PARTIES will enter into such further agreement(s), as necessary, whereby the COUNTY will transfer ownership to CITY RDA of the real property commonly known as the Central Garage parcel, situated at 221 South 'H' Street, Madera, California, and upon which parcel is also situated the former Information Technology/Environmental Health/Sheriff building, at 216 West Sixth Street, Madera, California, and which parcel is also identified as Assessor's Parcel Number (A.P.N.) 010-134-005-0 (Transfer Parcel). Transfer of the Transfer Parcel to the CITY RDA shall not occur until September 30, 2010.

1.01 CITY RDA will transfer the Transfer Parcel to the State of California Administrative Office of the Courts (State AOC) for the express purpose of construction of the Courthouse Project upon the Central Garage Parcel. COUNTY understands that construction of Courthouse Project will necessarily entail relocation of COUNTY's Central Garage operations to another location, which relocation COUNTY will undertake at no cost to CITY RDA or to the State AOC. County shall be solely responsible for any necessary environmental clean up of said Transfer Parcels in compliance with all federal and state laws.

1.02 CITY RDA's agreement with State AOC respecting Courthouse Project construction will expressly provide that neither the State AOC, State of California, Superior Court, nor any affiliated entity, will make or assert any claim of ownership to the improvements or parcel situated at 209 West Yosemite Avenue, Madera, California, and also identified as A.P.N. 010-092-001-0, after vacating such location, which vacation will occur not later than ninety (90) days after completion of construction of the Courthouse Project.

1.03 CITY RDA intends to construct a parking facility with a minimum two hundred fifty to three hundred (250 - 300) parking spaces, immediately adjacent to the new courthouse. CITY RDA shall negotiate with the AOC in good faith to ensure that said two hundred fifty to three hundred (250 - 300) space parking facility shall be completed simultaneously or no later than one (1) year from the issuance of the Certificate of Occupancy for the new courthouse. COUNTY shall not become obligated under this agreement to transfer property identified in paragraph 1.01 unless and until COUNTY is satisfied that the parking facility will be constructed.

1.04 CITY RDA will, at COUNTY'S sole option, expend funds in an amount equal to the appraised value at the time of transfer of the Transferred Parcel, with improvements, to either: demolish COUNTY's jail annex facility located in the historic Courthouse Park, 210 West Yosemite Avenue, Madera, California, or, renovate the former COUNTY Library building located at 135 West Yosemite Avenue, Madera, California. Both parties hereto shall bear fifty percent (50%) of the expenses of said appraisal. In the event that the appraised value is not adequate for either project, COUNTY, at its option, shall provide the additional funds for completion of the project or select another project consistent with CITY RDA five year implementation plan.

1.05 In the event that COUNTY decides to sell the Present Courthouse parcel, COUNTY grants to CITY RDA a right of first refusal to purchase the Present Courthouse parcel at its appraised value at the time of offer to purchase or at a price equal to a bonified offer to purchase, provided, however, that CITY RDA must ensure that the continued usage of the Present Courthouse parcel will remain and continue to be primarily a governmental institution usage for a period of twenty (20) years from the date of transfer. CITY RDA shall have ninety (90) days from the date of notification of potential sale of said property to exercise its rights under this section.



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1.06 Contingent upon the agreement of the Veterans of Foreign Wars (VFW) to sell and relocate from their present facility, as identified below and pursuant to the terms provided herein below, COUNTY and CITY RDA agree to contribute an equal sum not to exceed One Hundred Thousand Dollars (\$100,000.00) each, or to provide property and city improvements in lieu of cash payments to facilitate relocation of the Veterans of Foreign Wars (VFW), from their present facility at 200 South 'G' Street, Madera, California, to another facility location to be determined. COUNTY has a reversionary interest in the present VFW facility, and will obtain a reversionary interest in any facility to which the VFW may relocate, by written agreement, the terms of which shall also provide for perpetual no-cost rental privileges for COUNTY, CITY RDA, City of Madera, and their affiliated entities at the new VFW facility.

2. **TRANSACTIONS COSTS.** Costs incurred with the carrying out of the above-referenced transactions, including but not limited to, escrow, title insurance, recording, and other costs and expenses will be shared equally among the PARTIES.

3. **COLLECTIVE ACTION.** Understanding that third party agreements must be executed to effect the purposes of this agreement, the PARTIES agree to work collectively so far as reasonably and legally possible to effectuate, accomplish and carry-out the terms and intent of this MOU.

4. **WAIVER OF FEES AND COSTS.** To the extent allowed by law, the PARTIES each agree not to impose, and to waive all fees and costs, otherwise imposable on the other party relating to the provisions contained in this MOU including, but not limited to, permit fees, and any other fees related to the above-referenced transactions, except as provided in Section 2 hereto.

5. **ASSIGNMENT.** Rights or obligations arising under the terms of this MOU may not be assigned by any party without the express written consent of both PARTIES.

6. **MODIFICATION.** This MOU may only be modified in writing duly executed and ratified by the PARTIES hereto.

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7. **CONDITIONAL MOU.** This MOU contemplates the execution of subsequent agreements with third parties who are not bound by the terms of this agreement. This agreement shall be considered a conditional agreement between the PARTIES for the purposes of effectuating the execution of the anticipated subsequent agreements and to ensure that the parties to this agreement act in good faith to carry forward this intent. In the event that the AOC, the State of California, the City of Madera, City RDA or County of Madera are unable to reach an agreement necessary to effectuate the construction of a new courthouse and parking facility within the parameters of this agreement, any party hereto may withdraw from this agreement upon notice to the other party.

8. **BINDING EFFECT.** Except as provided in Section 7 and Section 9, this MOU shall be binding upon the heirs, representatives, and assigns of the PARTIES.


9. **SUBSEQUENT AGREEMENTS.** This MOU contemplates a series of legally enforceable agreements and/or actions to be entered into by the PARTIES including escrows, land use or transaction agreements, and related agreements which must be drafted and executed at later dates. This MOU contemplates all of the essential terms, conditions, rights, duties and obligations of the PARTIES which shall become binding upon execution and/or ratification as appropriate by COUNTY and CITY RDA as public agencies of each and all of the additional agreements referenced herein, provided each such referenced agreement is adopted in substantially the form and content contemplated by the PARTIES hereto.

10. **PEN AND INK CORRECTIONS.** Notwithstanding any provision herein, pen and ink corrections may be inserted and considered binding upon initialization by all PARTIES.

\* \* \* \* \*

IN WITNESS WHEREOF, the foregoing MOU is executed on the day and year first written above.

COUNTY OF MADERA

  
Chairman, Board of Supervisors

CITY OF MADERA  
REDEVELOPMENT AGENCY

By:   
Sally J. Bompreszi, Chairperson

ATTEST:

  
Clerk, Board of Supervisors

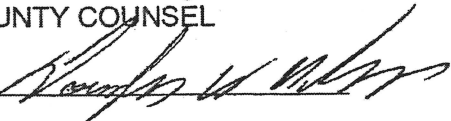


ATTEST:

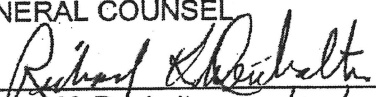
  
Sandi Brown, Agency Secretary



Approved as to Legal Form:  
COUNTY COUNSEL

By: 

Approved as to Legal Form:  
GENERAL COUNSEL

By:   
Richard K. Denhalter 11/14/08

ACCOUNT NUMBER(S)

\_\_\_\_\_  
\_\_\_\_\_

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

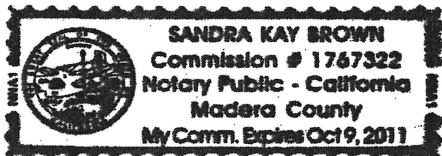
State of California

County of Madera

On January 16, 2009 before me, Sandra Kay Brown, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Sam Armentrout AKA Sammie Lee Armentrout  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

### OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

#### Description of Attached Document

Title or Type of Document: Agreement for Purchase and Sale of Real Property and Escrow Instructions

Document Date: \_\_\_\_\_ Number of Pages: 13 pages

Signer(s) Other Than Named Above: Max Rodriguez, Jim Gereck, Sandi Brown

#### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

(H 4)

MADERA COUNTY CONTRACT NO. 8837-C-2009  
(Superseding Agreement for Purchase and Sale of  
Real Property and Escrow Instructions)

**THIS AGREEMENT** is entered into this 17<sup>TH</sup> day of MARCH, 2009, by and among the COUNTY OF MADERA, a political subdivision of the State of California, hereinafter referred to as "SELLER," without regard to number or gender, hereby agrees to sell to the MADERA REDEVELOPMENT AGENCY, a public body, corporate and politic, hereinafter referred to as the "AGENCY," the real property described in Exhibit "A," attached hereto and incorporated herein by reference, referred to herein variously as the "Transferred Parcel" and as the "Subject Property." This Agreement supersedes Madera County Contract No. 8793-C-2009.

1. The purchase price for the Subject Property shall be the appraised value at the time of transfer of the Transferred Parcel with improvements. Payment in full of the purchase price shall be made, at COUNTY's sole option, by either: (1) the demolition by AGENCY of County's jail annex facility located in the historic Courthouse Park, 210 West Yosemite Avenue, Madera, California; or (2) the renovation by AGENCY of the former County Library building located at 135 West Yosemite Avenue, Madera, California. Both parties shall bear fifty percent (50%) of the expenses of said appraisal. In the event that the appraised value is not adequate for either project, County, at its sole option, shall provide the additional funds for completion of the selected project by AGENCY or County shall select another project consistent with AGENCY's five (5) year implementation plan as just compensation therefore.

2. SELLER warrants that the Subject Property has been offered for sale and that it is not being acquired under threat of condemnation.

3. SELLER represents and warrants that they have the authority to make the agreement herein made, and that they hold fee title to the Subject Property.

4. The sale shall be completed through an escrow to be opened by Chicago Title Company, 1653 North Schnoor Avenue, Suite 107, Madera, CA 93637 (the "Title Company"). Said escrow shall be opened upon the following terms and conditions, and SELLER and AGENCY by their signature to this Agreement make this section their escrow instructions:

4.01 It is the intent of the parties to this Agreement that the SELLER will place into escrow a grant deed to the Subject Property in favor of the AGENCY. The AGENCY will place into escrow, funds in the amount of the Purchase Price and any costs to be paid by the AGENCY.

4.02 The escrow fee, cost of policy of title insurance, recording fees (if any), and all other closing costs shall be paid by AGENCY. SELLER will pay any cost to clear the title to the Subject Property prior to the recording of the grant deed conveying the property to the AGENCY as well as any real estate agent's commission.

4.03 AGENCY shall deposit the sums specified in Paragraph 1 of this Agreement together with an amount equal to its share of the closing costs in escrow upon receipt of a demand and statement from Title Company therefore.

4.04 SELLER shall deposit a duly executed grant deed sufficient to convey to AGENCY marketable fee simple title to the Subject Property free and clear of all recorded and unrecorded deeds of trusts, liens, encumbrances, assessments, easements, leases, and taxes EXCEPT:

4.04.1 Quasi-public utility, public alley, public street easements, and rights of way of record.



- 4.05 Property taxes for the current fiscal year that are not yet due and have not yet been paid shall be prorated to close of escrow. It is understood that SELLER shall be responsible for the payment of all current, delinquent and unpaid taxes, penalties, redemptions, and costs allocable to the Subject Property for all periods prior to close of escrow. Any taxes which have been paid by SELLER, prior to opening of this escrow, shall not be prorated between BUYER and SELLER, but SELLER shall have the sole right, after close of escrow, to apply to the county Tax Collector of said county for refund. This refund would apply to the period after AGENCY's acquisition, pursuant to Revenue and Taxation Code section 5096.7.
- 4.06 Disbursements to be in the amounts, at the times, and in all respects in accordance with the terms and conditions and subject to the limitations of this Agreement.
- 4.07 SELLER shall provide a duly executed grant deed and AGENCY shall submit to Title Company the amounts required to be paid by AGENCY, and Title Company shall record the grant deed in favor of the AGENCY no later than September 1, 2010. Should a party not be able to comply with the terms of this Agreement and escrow instructions and the property is not conveyed within said period of time, a fifteen (15) day extension for compliance with the terms of escrow may be granted by the other party hereto. Such extension in order to be effective must be in writing and filed with the Title Company before the expiration of the time of performance and terms of escrow required herein.

5. SELLER shall vacate the property immediately upon close of escrow and AGENCY shall have the immediate right of possession of such property.

6. SELLER warrants that, excepting the Superior Court of the State of California, there are no tenants on the Subject Property pursuant to any lease agreement or on a month to month tenancy.

7. SELLER hereby grants to AGENCY, or its authorized agents, permission to enter upon the Subject Property, excepting that portion of the Subject Property occupied by the Superior Court of the State of California, at all reasonable times prior to close of escrow for the purpose of making necessary or appropriate inspections.

8. Loss or damage to the Subject Property or any improvements thereon, by fire or other casualty, occurring prior to the recordation of the Deed shall be at the risk of SELLER. In the event that loss or damage to the Subject Property or any improvements thereon, by fire or other casualty, occurs prior to the recordation of the Deed, AGENCY may elect to require that the SELLER pay to AGENCY the proceeds of any insurance which may become payable to SELLER by reason thereof, or to permit such proceeds to be used for the restoration of the damage done, or to reduce the total price by an amount equal to the diminution in value of the Subject Property by reason of such loss or damage or the amount of insurance payable to SELLER, whichever is greater.

9. To the best of SELLER's knowledge, without SELLER having conducted any investigation or analysis, the Subject Property complies with all applicable laws and governmental regulations including, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including but not limited to, the Clean Water, Clean Air, Federal Water Pollution Control, Solid Waste Disposal, Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts, and the California Environmental Quality Act, and the rules regulations, and ordinances of the city within which the Subject Property is located, the California

Department of Health Service, the Regional Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection AGENCY, and all applicable federal, state, and local agencies and bureaus.

10. SELLER hereby warrants, represents and/or covenants to AGENCY that:

10.01 To the best of SELLER's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Subject Property or any portion thereof, at law, or in equity before any court or governmental AGENCY, domestic or foreign.

10.02 To the best of SELLER's knowledge, there are no encroachments onto the Subject Property by improvements on any adjoining property, nor do any buildings or improvements encroach on other properties.

10.03 Until the closing, SELLER shall maintain the Subject Property in good condition and state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the Subject Property.

10.04 Until the closing, SELLER shall not do anything which would impair SELLER's title to any of the Subject Property.

10.05 To the best of SELLER's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument to which the Subject Property may be bound.

10.06 Until the closing, SELLER shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Warranties, Representations, and Covenants of SELLER section not to be

true as of closing, immediately give written notice of such fact or condition to AGENCY.

11. AGENCY acknowledges it is purchasing the Subject Property **as is** and SELLER does **not** warrant that the Subject Property is free from any hazardous materials.

12. Time is of the essence of each and every term, condition, and covenant hereof.

13. It is understood and agreed that upon the execution of this Agreement, it shall become a contract for the purchase and sale of real property binding upon SELLER and AGENCY, their heirs, executors, administrators, successors in interest, and assigns.

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\* \* \* \* \*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above-written.


COUNTY OF MADERA

  
Chairman, Board of Supervisors

ATTEST:

  
Clerk, Board of Supervisors

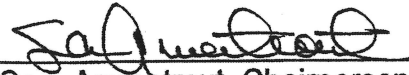
Approved as to Legal Form:  
COUNTY COUNSEL

By: 

ACCOUNT NUMBER(S)

\_\_\_\_\_  
\_\_\_\_\_


CITY OF MADERA  
REDEVELOPMENT AGENCY

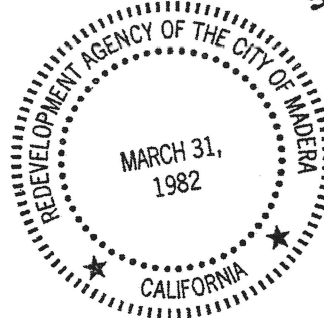
By:   
Sam Armentrout, Chairperson

ATTEST:

  
Sandi Brown, AGENCY Secretary

Approved as to Legal Form:  
GENERAL COUNSEL

By:   
Richard K. Denhalter 3/12/09



# **EXHIBIT “A”**

## LEGAL DESCRIPTION

### EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

#### PARCEL 1:

Lots 25 and 26 and the Northeasterly 100 feet of Lots 27, 28, 29, 30, 31 and 32 in Block 9 of Hughes Addition to the Town (now City) of Madera, according to the map entitled, "Map of Lankershim Colony and Addition to the Town of Madera etc.", according to the map thereof recorded in Book 4, Page 31 of Maps, Madera County Records.

#### PARCEL 2:

The Southwesterly 50 feet of Lots 27 to 32 inclusive, in Block 9 of Hughes Addition to the City of Madera, according to map entitled, "Map of Lankershim Colony and Addition to the Town of Madera &c.", filed for record in the office of the County Recorder of Fresno County, California, February 5, 1889 in Book 4 of Maps at page 31.

#### PARCEL 3:

Lots 17, 18, 19, 20, 21 and 22 in Block 9 of Hughes Addition to the Town, now City of Madera, according to the map entitled, "Map of Lankershim Colony and Addition to the Town of Madera, etc.", filed and recorded in the office of the County Reorder of the County of Fresno, State of California, February 3, 1899 in Book 4 of Maps, at page 31.

#### PARCEL 4:

Lots 23 and 24 in Block 9 of Hughes Addition to the Town, now City of Madera, according to the map entitled, "Map of Lankershim Colony and Addition to the Town of Madera, &c.", filed and recorded in the office of the County Reorder of the County of Fresno, State of California, February 3, 1899 in Book 4 of Maps, Page 31.

APN: 010-134-005

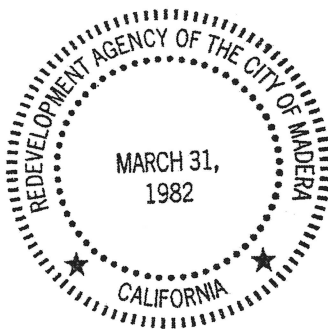


MADERA REDEVELOPMENT AGENCY  
5 EAST YOSEMITE AVENUE  
MADERA, CALIFORNIA 93638  
(559) 661-5110

**CERTIFIED COPY**

I hereby certify that the foregoing is a true and correct copy of Resolution MRA-1228 adopted by the Madera Redevelopment Agency Board at a regular meeting thereof held on March 11, 2009.

Date: March 13, 2009



  
Sandi Brown, Agency Secretary

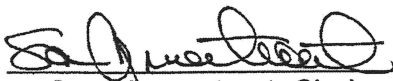


**CERTIFICATE OF ACCEPTANCE**  
(Government Code 27281)

This is to certify that the interest in real property conveyed by the Grant Deed attached hereto and dated \_\_\_\_\_ from **Madera County** to the **Madera Redevelopment Agency** is hereby accepted by the undersigned officer or agent on behalf of the **Madera Redevelopment Agency** pursuant to authority conferred by Resolution Number MRA-1228 the Madera Redevelopment Agency adopted on March 11, 2009 and the Grantee consents to recordation thereof by its duly authorized officer.

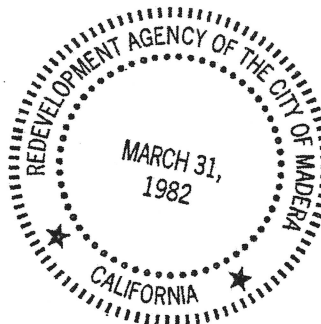
Dated: March 12, 2009

**Madera Redevelopment Agency**

By:   
Sam Armentrout, Chairperson

ATTEST:

  
Sandi Brown, Agency Secretary



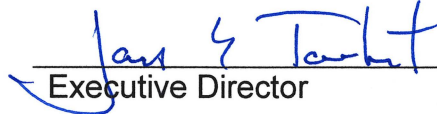
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216 West 6<sup>th</sup> Street-Rev Sales Agmt

## REPORT TO THE SUCCESSOR AGENCY OF THE FORMER MADERA REDEVELOPMENT AGENCY

BOARD MEETING OF: June 16, 2014  
AGENDA ITEM NUMBER: 3.3

APPROVED BY:

  
Executive Director

**Subject:** Consideration of a Resolution Approving an Amendment to the Development and Disposition Agreement with Ironhorse Elm LLC

**Summary:** The Oversight Board will consider a resolution amending the Disposition and Development Agreement (DDA) with Ironhorse Elm, LLC. The Amendments relate to certain performance deadlines outlined in the original agreement. Additionally, Ironhorse Elm, LLC would like greater flexibility in their ability to sell the property

### HISTORY/BACKGROUND

The former Redevelopment Agency approved a DDA with Ironhorse Elm, LLC in August 2010. The section of the agreement related to performance timelines is outlined below:

**Section 405 Time for Performance and Rebate.** Subject to Section 705, the Developer shall begin construction of the commercial/retail buildings no later than two (2) years after the closing date. Developer shall complete Project no later than five (5) years after Closing Date. Upon a showing of good cause by Developer, Agency may extend the time for performance not more than twelve (12) months. In consideration of the financial benefit to Agency of early completion of Project, Agency agrees to rebate to Developer the sum of Ninety Thousand Dollars (\$90,000.00) from the purchase price upon issuance of a Certificate of Completion by Agency, pursuant to Section 414 of this Agreement, on a date not more than eighteen (18) months after Closing Date. Agency may allow a partial incentive on a pro rata basis for work actually completed not more than eighteen (18) months after the Closing Date, with the amount to be determined at the Agency's discretion.

### SITUATION

Through their attorney, Ironhorse Elm, LLC are requesting that Section 405 be amended due to the following factors:

1. The contamination clean-up was not completed until April 1, 2014. It is difficult to get project financing to develop on contaminated land. Additionally, the equipment used to remove the contamination was located in a manner that impacted project design
2. The DDA called for the former Redevelopment Agency to fund the construction of a traffic signal at Yosemite Avenue and Elm Street. The Department of Finance did not approve that expenditure until the last ROPS. The project is currently being reviewed by Caltrans.
3. The agreement timeline would begin on April 1, 2014.
4. The principals involved in Ironhorse Elm, LLC have undergone some significant changes. It is their desire to sell the property.

Mr. David Camenson is the attorney for the partnership. A copy of his letter is attached.

**It is important to note that any action taken regarding this request is subject to review by the Oversight Board and Department of Finance.**

**RECOMMENDATION**

Staff recommends the Oversight Board adopt the resolution amending the Disposition and Development Agreement with Ironhorse Elm, LLC.

JET:cm

Attachments:

- Resolution
- Amended DDA
- Letter

RESOLUTION NO. OB 14-06

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE FORMER MADERA REDEVELOPMENT AGENCY OF THE CITY OF MADERA, CALIFORNIA APPROVING AN AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE CONSTRUCTION OF A 40,000± COMMERCIAL/RETAIL CENTER TO BE BUILT BY IRONHORSE ELM, LLC ALONG YOSEMITE AVENUE BETWEEN FIG AVENUE AND ELM STREET

WHEREAS, Ironhorse Elm, LLC applied to purchase property from the Former Madera Redevelopment Agency in 2010, for the construction of a 40,000± commercial/retail center on the Southeast corner of Yosemite Avenue and Fig Avenue; and

WHEREAS, the environmental clean-up of the site by the Former Madera Redevelopment Agency has taken longer than expected; and

WHEREAS, Ironhorse Elm, LLC, has requested an extension of time for completion of the project;

WHEREAS, the Successor Agency of the Former Madera Redevelopment Agency desires to extend the time frame for completion of the project in the original contract; and

WHEREAS, the Successor Agency of the Former Madera Redevelopment Agency has prepared and approved an Amendment to the Disposition and Development Agreement with Ironhorse Elm (the "Agreement") and such Amended Agreement is on file in the office of the Executive Director of the Successor Agency of the Former Madera Redevelopment Agency and referred to for more particulars.

WHEREAS, Ironhorse Elm, LLC applied to purchase property from the Former Madera Redevelopment Agency in 2010, for the construction of a 40,000± commercial/retail center on the Southeast corner of Yosemite Avenue and Fig Avenue; and

WHEREAS, the environmental clean-up of the site by the Former Madera Redevelopment Agency has taken longer than expected; and

WHEREAS, Ironhorse Elm, LLC, has requested an extension of time for completion of the project;

WHEREAS, the Successor Agency of the Former Madera Redevelopment Agency desires to extend the time frame for completion of the project in the original contract; and

WHEREAS, the Successor Agency of the Former Madera Redevelopment Agency has prepared an Amendment to the Disposition and Development Agreement with Ironhorse Elm (the "Agreement") and such Amended Agreement is on file in the office of the Executive Director of the Successor Agency of the Former Madera Redevelopment Agency and referred to for more particulars.

NOW, THEREFORE, THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE FORMER MADERA REDEVELOPMENT AGENCY hereby finds, determines, resolves and orders as follows:

1. The above recitals are true and correct.
2. The Oversight Board has reviewed and considered the proposed Agreement as presented by the Successor Agency to the former Madera Redevelopment Agency which is on file in the office of the Executive Director of the Successor Agency of the Former Madera Redevelopment Agency and referred to for more particulars.
3. The proposed Agreement as presented by the Successor Agency to the former Madera Redevelopment Agency is hereby approved.
4. This resolution is effective immediately upon adoption.

\* \* \* \* \*

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
(Recorder's fee waived per Govt. Code §27383)

City of Madera Successor Agency to the former  
Madera Redevelopment Agency  
428 East Yosemite Avenue  
Madera, CA 93638  
Attn: Executive Director

MAIL TAX STATEMENTS TO:

Ironhorse Elm, LLC.  
1100 E. Almond Avenue, Suite 101  
Madera, California 93637

---

SPACE ABOVE THIS LINE FOR RECORDERS USE

AMENDMENT TO  
DISPOSITION AND DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE SUCCESSOR AGENCY TO THE FORMER  
MADERA REDEVELOPMENT AGENCY

AND

IRONHORSE ELM, LLC

FOR

APN: 008-022-010/008-022-035

AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE  
SUCCESSOR AGENCY OF THE FORMER REDEVELOPMENT AGENCY AND IRONHORSE ELM,  
LLC FOR APN: 008-022-010/008-022-035

This Amendment to the previous agreement titled "Disposition And Development Agreement By and Between The Madera Redevelopment Agency and Ironhorse Elm, LLC For APN: 008-022-010/008-022-035" dated September 13, 2010, is made and entered into this 11<sup>th</sup> day of June 2014, by and between the Successor Agency of the Former Madera Redevelopment Agency, hereinafter called "Agency," and Ironhorse Elm LLC., hereinafter called "Developer".

WITNESSETH:

WHEREAS, the Madera Redevelopment Agency and Ironhorse Elm entered into an agreement dated September 13, 2010, to contract with Ironhorse Elm to provide 40,000± square feet of commercial/retail space and parking (the "Agreement"); and

WHEREAS, Agency and Developer desire to modify said Agreement by extending time to complete the project and allow more flexibility in selling the property in addition to services originally to be accomplished in the Agreement. The new services will allow until April 1, 2019 for the Project to be completed and allow the rights, duties, and obligations to a bona fide third party developer approved by the City of Madera.

NOW THEREFORE, it is hereby agreed that the Agreement between the parties is amended in the following particulars only:

Section 1. "Section 104 Agency" is amended to read as follows:

Section 104 Agency. "Agency" means the Successor Agency to the Former Madera Redevelopment Agency, a body corporate and politic, whose mailing address for notice purposes is 428 East Yosemite Avenue, Madera, CA 93638.

Section 2. "Section 405 Time for Performance and Rebate" is amended to read as follows:

Section 405 Time for Performance and Rebate. Subject to Section 705, the Developer shall begin construction of the commercial/retail buildings no later April 1, 2016. Developer shall complete Project no later than April 1, 2019. Upon a showing of good cause by Developer, Agency may extend the time for performance not more than twelve (12) months. In consideration of the financial benefit to Agency of early completion of Project, Agency agrees to rebate to Developer the sum of Ninety Thousand Dollars (\$90,000.00) from the purchase price upon issuance of a Certificate of Completion by Agency, pursuant to Section 414 of this Agreement, on a date not more than eighteen (18) months from April 1, 2014. Agency may allow a partial incentive on a pro rata basis for work actually completed not more than eighteen (18) months after the Closing Date, with the amount to be determined at the Agency's discretion.

Section 2. All other provisions of the Agreement not inconsistent with this Amendment shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and

through their respective officers duly authorized on the date first written above.

CITY OF MADERA AS SUCCESSOR  
AGENCY TO THE FORMER  
MADERA REDEVELOPMENT AGENCY

IRONHORSE ELM, LLC,

By: \_\_\_\_\_  
Robert L. Poythress, Mayor

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

ATTEST:

By: \_\_\_\_\_  
Claudia Mendoza, Recording Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
J. Brent Richardson,  
General Counsel



**Law Office of  
David M. Camenson  
a Professional Corporation**

642 Pollasky Avenue, Ste. 220  
Clovis, California 93612

Telephone: (559) 299-4422  
Facsimile: (559) 299-4641  
E-Mail: dave@camensonlaw.com

May 28, 2014

Jim Taubert, Executive Director  
SUCCESSOR AGENCY TO THE  
MADERA REDEVELOPMENT AGENCY  
428 E. Yosemite Avenue  
Madera, California 93638

*E-mail: jtaubert@cityofmadera.com*

Re: Elm/Fig Development

Dear Jim:

I am writing you this letter concerning the Disposition and Development Agreement (the "Agreement") entered into between the Madera Redevelopment Agency (the "RDA") and Ironhorse Elm, LLC dated September 13, 2010, and more specifically the deadlines set forth in section 405 of the Agreement. The Agreement sets parameters for the development of the property south of Yosemite Avenue between Elm and Fig Avenues. Section 405 provides that Ironhorse Elm, LLC shall have up to five years after the closing to complete the development of the property within those parameters. The Agreement also provides Ironhorse Elm, LLC with an incentive/rebate to build out the project on or before 18 months after that date. As you know, Ironhorse Elm could not break ground on the development of the property until after the environmental cleanup work on the property was completed. Responsibility for the cleanup work fell upon the RDA. It was not until April 1, 2014, that notice from the Central Valley Regional Water Quality Control Board was issued that the cleanup work had been completed. The cleanup delay was an obvious impediment to Ironhorse Elm's ability to complete the project within the denoted deadlines of Section 405. As such, Ironhorse Elm has been effectively forced to forfeit the rebate, and yet obtaining the rebate was a critical inducing factor in Ironhorse Elm's decision to enter into the Agreement.

Important to the success of the development of the property has always been the phenomenon that certain businesses are attracted to locate at an established intersection--for instance, fast food restaurants. Integral to establishing an intersection is the installation of a traffic signal. The former RDA was responsible for erecting a traffic signal at the intersection of Yosemite Avenue and Elm Street--the northeast corner of the property. With the dissolution of the RDA, work on the traffic signal for the intersection floundered. As a result, locating interested tenants for the property has become a much more difficult endeavor, which effects the ability to plan the layout for the development of the property. Thus, like the cleanup delay, the delay in constructing the traffic signal has been an impediment to Ironhorse Elm's ability to complete the project within the denoted deadlines of Section 405.


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Since these delays are due in no part to my client's actions or inactions, my client believes that it should not be bound to the Agreement's stated deadlines; instead, the deadlines should be extended to dates calculated, at a minimum, from April 1, 2014, but more appropriately, from the date after which the traffic signal at Yosemite and Elm is finally constructed..

The Agreement also sets limitations upon the ability to transfer the rights, duties, and obligations of my client with respect to the development of the property to a third party. The above-mentioned delays have caused a change in circumstances such that it may very well be that the development of the property would more likely occur under the ownership of a different developer. It is therefore requested that the City of Madera acknowledge to Ironhorse Elm, LLC that it will allow for the transfer of such rights, duties, and obligations to a bona fide third party developer after a vetting of such developer by the City, so that my client can purposefully conduct a search to determine if such a developer is available to complete the project. This would allow the potential for the more likely desired result, something which both parties should embrace.

Based on the above, it is with great respect for the City of Madera, and the hope of actual development of the property in the manner as set forth in the Agreement, that Ironhorse Elm, LLC make the requests as set forth herein. I look forward to discussing your thoughts on this matter.

Yours truly,



David M. Camenson

cc: Ironhorse Elm, LLC