

RESOLUTION NO. M-2013-05A

A RESOLUTION OF THE OVERSIGHT BOARD TO THE MERCED DESIGNATED LOCAL AUTHORITY, AS SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF MERCED, APPROVING AN EXTENSION TO THE COSTCO LEASE IN SUBSTANTIALLY THE FORM ATTACHED HERETO AND AUTHORIZING MICHAEL AMABILE TO SIGN THE EXTENSION AND TAKE ANY AND ALL APPROPRIATE ACTIONS WITH RESPECT THERETO

WHEREAS, the Oversight Board to the Merced Designated Local Authority, as Successor Agency to the Redevelopment Agency of the City of Merced ("**DLA**"), has been established to oversee the DLA taking actions to wind down the affairs of the former Redevelopment Agency of the City of Merced ("**Agency**") in accordance with the California Health and Safety Code; and

WHEREAS, Section 34171(d)(1)(F) of the Health and Safety Code provides that a Successor Agency may create enforceable obligations to maintain the assets of the former Agency prior to disposition; and

WHEREAS, the DLA owns certain real property at the corner of "R" and West 15th Streets, consisting of approximately 82,000 square feet located in Merced, California ("**Property**"), currently leased to Costco Wholesale Corporation ("**Lessee**") for use as a parking lot pursuant to that certain Lease Agreement with Option to Purchase dated July 13, 1993, as amended by that certain Agreement to Renew Commercial Lease dated June 7, 2004 ("**Lease**"); and

WHEREAS, Section 11 of the Lease requires the Agency to perform, at no cost to the lessee, any and all remediation of the environmental hazards on the Property, and such remediation is not yet complete; and

WHEREAS, the DLA and Lessee have previously entered into that certain First Amendment to Lease Agreement with Option to Purchase dated May 24, 2013 ("May Amendment"), which was not approved by the California Department of Finance in accordance with Assembly Bill 1x 26, as amended by AB 1484. The proposed Amendment shall supersede and replace the May Amendment; and

WHEREAS, the DLA and Lessee each desire to modify the Lease to extend the term of the Lease for one year until July 12, 2014, in order to provide the DLA with additional time to complete its obligations with respect to the remediation of environmental hazards existing on the Property, as described in the Lease; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE OVERSIGHT BOARD TO THE DESIGNATED LOCAL AUTHORITY, AS SUCCESSOR AGENCY OF THE REDEVELOPMENT

AGENCY OF THE CITY OF MERCED, DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The Recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. The Oversight Board hereby approves a one year lease extension in substantially the form attached hereto to be entered into by the Successor Agency with the Lessee for an approximately 82,000 square foot lot at the corner of "R" and West 15th Streets, in Merced, California, CA for \$60,100 per year. Pursuant to Health & Safety Code Section 34173, the Successor Agency's liability is limited to the total sum of property tax revenues it receives pursuant to Part 1.85 of AB X1 26.

SECTION 3. Michael Amabile, or his designee, is hereby authorized to finalize and enter into such lease extension on behalf of the Successor Agency and take such other actions as may be required by the Health & Safety Code, and any other actions as may be necessary in furtherance of the foregoing Lease in accordance with applicable law.

SECTION 4. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are severable. The DLA hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 5. This Resolution shall take effect from and after the date of its passage and adoption.

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PASSED, APPROVED AND ADOPTED at a regular meeting of the Oversight Board to the Merced Designated Local Authority, as Successor Agency to the Redevelopment Agency of the City of Merced, held this 1st day of August, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson, Oversight Board to the Merced Designated Local Authority, as Successor Agency to the Redevelopment Agency of the City of Merced

Approved as to Form:

Tia Boatman Patterson
Oversight Board Counsel

Attachment:

First Amendment to Lease Agreement with Option to Purchase by and between the Merced Designated Local Authority, as Successor Agency to the Redevelopment Agency of the City of Merced, a California public body, corporate and politic and COSTCO Wholesale Corporation, a Washington corporation