



Agenda Date: 9/12/2006
Agenda Placement: 6Z

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Britt Ferguson for Nancy Watt - County Executive Officer
County Executive Office
REPORT BY: Margaret Woodbury, Chief Deputy County Counsel, 259-8246
SUBJECT: Amendment No. 3 to Agreement No. 5064

RECOMMENDATION

County Executive Officer requests approval of and authorization for the Chair to sign Amendment No. 3 to Agreement No. 5064 with the Peter A. and Vernice H. Gasser Foundation to modify the description of the Ground Lease to exclude a vacant portion of the leased premises not occupied by the South Napa Homeless Shelter facility, subject to compliance with Government Code Section 65402 and Government Code Section 66428 on or before December 31, 2006.

EXECUTIVE SUMMARY

On April 8, 2003, the Gasser Foundation and the County of Napa entered into a Ground Lease (Napa County Agreement No. 5064) which leased to the County for 99 years a .99 acre parcel located on Hartle Court to develop a homeless shelter. The property also included sufficient space to develop transitional housing. The description of the premises was refined by Amendment No. 1, approved on June 28, 2005.

On June 27, 2006, Amendment No. 2 was approved to exclude from the Ground Lease land not needed for the South Napa Homeless Shelter and its related improvements in order to allow the Gasser Foundation to lease the excluded area to the Progress Foundation for construction and operation of transitional housing. Amendment No. 2 has now lapsed because it was contingent upon compliance with certain subdivision map and general plan actions required by state law which could not be completed by the City of Napa prior to the Amendment's deadline of August 30, 2006.

Proposed Amendment No. 3 will reinstate the provisions of Amendment No. 2 excluding the transitional housing area from the Ground Lease, subject to completion of the necessary City actions on or before a new deadline of December 31, 2006. Amendment No. 3 will also clarify the legal description of the lands remaining subject to the Ground Lease after such exclusion.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not itself a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On April 8, 2003, the Gasser Foundation and the County of Napa entered into a Ground Lease (Napa County Agreement No. 5064) by which the Gasser Foundation leased to the County for 99 years a .99 acre parcel of land located on Hartle Court to develop a homeless shelter. The property also included sufficient space to develop transitional housing. The description of the premises was refined by Amendment No. 1, approved on June 28, 2005.

By Amendment No. 2, approved on June 27, 2006, the County and the Gasser Foundation attempted to exclude from the Ground Lease the portion of the leased premises not occupied by the South Napa Homeless Shelter and its related improvements, to allow the Gasser Foundation to directly lease the excluded area to the Progress Foundation to use to construct and operate transitional housing. Amendment No. 2 was subject to a contingency requiring the parties on or before August 30, 2006 to obtain a parcel map waiver from the City of Napa Planning Commission under Government Code section 66428 and general plan consistency referral and report as required by Government Code section 65402.

The provisions of Amendment No. 2 have now lapsed because while the City waiver and report are currently pending before the City's Planning Commission, the Planning Commission was unable to complete the process on or before August 30, 2006.

The proposed Amendment No. 3 will reinstate the provisions of Amendment No. 2 to modify the description of the leased premises subject to the Ground Lease to exclude the vacant portion not occupied by the South Napa Homeless Shelter facility. Like Amendment No. 2, Amendment No. 3 will also be contingent upon compliance with Government Code section 65402 and Government Code section 66428 but contains a new deadline of December 31, 2006 for the required action to be completed.

Amendment No. 3 also refines and clarifies the legal description of the leased premises remaining subject to the Ground Lease after exclusion of the area designated for transitional housing.

The County Executive Officer is now requesting the Board to approve and authorize its Chair to sign Amendment No. 3 of Napa County Agreement No. 5064 with the Peter A. and Vernice H. Gasser Foundation.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Karen Gratton