



CITY COUNCIL AS SUCCESSOR AGENCY STAFF REPORT

DATE: May 7, 2014

CONSENT CALENDAR

SUBJECT: TERMINATION OF A SUBLEASEHOLD INTEREST IN A 9.62 ACRE PORTION OF BUSINESS LEASE 315 (PSL 315) PURSUANT TO AN ORDER OF THE STATE CONTROLLER AND THE CALIFORNIA DEPARTMENT OF FINANCE

FROM: David H. Ready, City Manager

BY: Community & Economic Development Department

SUMMARY

In 2013, the Successor Agency of the former Community Redevelopment of the City of Palm Springs ("Agency") was ordered by the State Controller's Office and the California Department of Finance to terminate the sublease interest acquired by the former Community Redevelopment Agency in September, 2007 and merge the leased interest into the Master Lease (PSL 315) held by the City of Palm Springs. These actions are required as part of the State's acceptance of the parcel as "governmental use" tied to the overall PSL 315 ground lease that includes the Convention Center itself.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ACTING SOLELY IN ITS CAPACITY AS THE SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT AGENCY, APPROVING THE TERMINATION OF A SUBLEASEHOLD INTEREST IN A 9.62 ACRE PORTION OF BUSINESS LEASE 315 (PSL 315) PURSUANT TO AN ORDER OF THE STATE CONTROLLER AND THE CALIFORNIA DEPARTMENT OF FINANCE."

STAFF ANALYSIS:

In 2004, construction began on the expansion of the City's Convention Center. The Convention Center expansion generated additional developer interest in the area surrounding the facility, including the expected development of two new hotels at the time. As a result of this activity, by 2006 or 2007 there were very few remaining vacant parcels of land immediately adjacent or in close proximity to the Convention Center that were available for either (1) a future expansion of the Convention Center, (2) additional

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public and private parking for the Convention Center and anticipated new hotels, or (3) additional hotel development to serve the Convention Center. The 9.62 acre parcel subleased by PS Venture Caballeros/Amado, LLC (the "Parcel") was one such property. The Parcel was leased by the City under the City's Master Lease with individual members of the Agua Caliente Band of Cahuilla Indians and subleased to PS Venture Caballeros/Amado, LLC (the "Sublessee"). In September, 2007 the former RDA acquired the leasehold interest from the Sublessee to control the site for future development of public and/or private facilities.

Using Tax Allocation Bond proceeds, the former RDA acquired the sublease interest on the City's behalf, relieving the City's General Fund and Community Promotion Fund, which paid the Convention Center debt service, of that amount. A Summary Report describing the transaction was prepared pursuant to Sections 33445 and 33679 of California Redevelopment Law.

In 2011, the Legislature and Governor enacted legislation abolishing all of the redevelopment agencies in California. As part of the Dissolution Act, agencies were required to dispose of all real property assets. However, one exception to the disposition requirement was for governmental use properties, defined in HSC section 34181 (a).

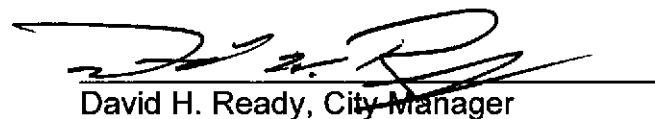
Based on the documents provided by the Agency to the State Department of Finance, Finance determined that the Convention Center is part of the Leasehold Agreement that the City has with the Bureau of Indian Affairs (Bureau) and the former RDA has no interest in the Convention Center parcels. Finance did not object to the overflow parking lot returning to the City since the City is the primary lessee; however, any subleases that the former RDA was a party to should be amended to remove the former RDA since agreements between the City and the former RDA are no longer enforceable pursuant to HSC section 34171 (d) (2), thereby merging the leasehold interest and sublease interest.

FISCAL IMPACT:

The terms of the sublease allow the Sublessee to not pay rent until after the parcel is developed. As an undeveloped parcel, the Agency does not have any current rent obligation nor does the City receive any revenue for the sublease.



John Raymond, Director



David H. Ready, City Manager

Attachments: Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ACTING SOLELY IN ITS CAPACITY AS THE SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT AGENCY, APPROVING THE TERMINATION OF A SUBLEASEHOLD INTEREST IN A 9.62 ACRE PORTION OF BUSINESS LEASE 315 (PSL 315) PURSUANT TO AN ORDER OF THE STATE CONTROLLER AND THE CALIFORNIA DEPARTMENT OF FINANCE

WHEREAS, the Community Redevelopment Agency of the City of Palm Springs (the "Agency") owns certain real properties in the City of Palm Springs (collectively, the "Properties"); and

WHEREAS, the Community Redevelopment Agency of the City of Palm Springs ("Redevelopment Agency") was a redevelopment agency in the City of Palm Springs ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

WHEREAS, in 2007, the Community Redevelopment Agency of the City of Palm Springs, acquired a subleasehold interest in certain real property (the "Leasehold") within Merged Project Area No. 2, generally being 9.62 acres located at the intersection of Amado Road and Avenida Cabelleros. The City of Palm Springs, a California charter city ("City"), is the Master Lessee under Business Lease No. PSL 315 ("Original Lease"), which is on file with the Bureau of Indian Affairs ("BIA"), which lease affects certain Sublease Land as more particularly described in said lease ("Master Lease Property"). The Master Lease has been amended pursuant to: 1) Amendment No. 1 to PSL-315 approved by the BIA on October 13, 1995; 2) the First Amendment to Business Lease-315, dated April 7, 2004, and approved by the BIA on May 26, 2004; and 3) the Second Amendment to Business Lease No. PSL-315, dated February 9, 2006, and approved by the BIA on February 9, 2006. The Original Lease as amended by the three amendments is collectively referred to in this Agreement as the "Master Lease"; and

WHEREAS, AB X1 26 and AB X1 27 were signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the California Health and Safety Code which effectively dissolves the Redevelopment Agency ("Dissolution Act"); and

WHEREAS, under the Dissolution Act, the term "successor agency" was defined to refer to the dissolved redevelopment agency's sponsoring community (the city, county or city and county that formed the Dissolved RDA), unless the sponsoring community adopted a resolution electing not to serve in that capacity; and

WHEREAS, as part of the Dissolution Act, agencies were required to dispose of all real property assets in a timely manner, though the Act did create an exception to the disposition requirement for governmental use properties, defined in HSC section 34181(a); and

WHEREAS, though the State has mostly narrowly construed governmental use properties to be only those specifically included in Section 34181(a), and rejected a number of former Redevelopment Agency properties to be considered governmental use, the California Department of Finance ("Finance") determined that the Convention Center is part of the Leasehold Agreement that the City has with the Bureau of Indian Affairs (Bureau), and did not object to the PSL 315 sublease returning to the City since the City is the primary lessee; and

WHEREAS, Finance further directed that any subleases that the former Redevelopment Agency was a party to should be amended to remove the former Redevelopment Agency, since agreements between the City and its former Redevelopment Agency are no longer enforceable pursuant to HSC section 34171 (d) (2), thereby merging the leasehold interest and sublease interest.

NOW THEREFORE BE IT RESOLVED THAT the City Council of the City of Palm Springs, acting solely in its capacity as the Successor Agency to the Community Redevelopment Agency of the City of Palm Springs hereby authorizes the termination of the PSL 315 Sublease as follows:

SECTION 1. The City Council hereby finds and determines that the foregoing recitals are true and correct, and incorporates them herein by reference.

SECTION 2. The City Council approves the termination of a sublease over a 9.62 acre section of PSL 315, acquired by the former Redevelopment Agency in 2007 pursuant to Section 33445 of California Redevelopment Law, from PS Venture Caballeros/Amado, LLC, the previous sublessee.

SECTION 3. The sublease interest and leasehold interest in the 9.62 acre parcel is hereby merged.

SECTION 4. This Resolution shall take effect three days after its adoption.

ADOPTED THIS 7TH DAY OF MAY, 2014.

DAVID H. READY, CITY MANAGER

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on May 7, 2014, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California