



Sacramento Public Library Authority

April 26, 2012

Agenda Item 11.0: Lease Agreement for
Rio Linda Library

TO: Sacramento Public Library Authority Board Members

FROM: Don Tucker, Director of Facilities

RE: Lease Agreement for Rio Linda Library

RECOMMENDED ACTIONS:

Approve Resolution #12-13, A Resolution Authorizing Execution of a Lease Agreement between the Twin Rivers Unified School District and the Sacramento Public Library Authority for Building H at Rio Linda Elementary School for the Purpose of Operating a Public Library.

REASON FOR RECOMMENDATION

On November 30, 2011, the Sacramento Public Library Authority Board adopted Resolution #11-55, requesting an allocation of \$1,259,925 from the 2001 Tobacco Litigation Settlement Bond proceeds in order to remodel Building H at the Rio Linda Elementary School campus to relocate the Rio Linda Library into a larger space. The resolution also approved a Grant Agreement with the County of Sacramento to administer the funds for the project. The County Board of Supervisors approved the allocation on December 13, 2011.

Library staff began working with Twin Rivers Unified School District (TRUSD) staff to craft a lease agreement for the building. Final recommended terms and conditions were agreed to by school district and library staff on April 16, 2012, and the lease agreement is now being recommended to the Authority Board and the Twin Rivers Unified School District Board for approval.

The basic terms of the proposed lease agreement are:

- TRUSD will invoice the Authority \$636.54 per month, which amount will be set aside into a capital replacement fund for roofing, carpeting, HVAC and other long term capital repairs.
- TRUSD will invoice the Authority for direct costs of all utilities used at Building H.
- TRUSD will invoice the Authority at a rate of 8% of the above two items for administrative overhead.
- The value of the permanent improvements to the site will belong to the Authority and will be depreciated over twenty years on a straight line basis.

The entire proposed Lease Agreement and the adopted Grant Agreement are attached to this report.

ATTACHMENTS:

Attachment A: County of Sacramento Grant Agreement

Resolution #12-13, Resolution Authorizing Execution of a Lease Agreement between the Twin Rivers Unified School District and the Sacramento Public Library Authority for Building H at Rio Linda Elementary School for the Purpose of Operating a Public Library

Exhibit A: Proposed Lease Agreement by and between Twin Rivers Unified School District and the Sacramento Public Library Authority

**GRANT AGREEMENT BETWEEN COUNTY OF SACRAMENTO AND
SACRAMENTO PUBLIC LIBRARY AUTHORITY**

This GRANT AGREEMENT (this “**Agreement**”) is made as of this ___ day of ____, 201_ (the “**Effective Date**”) between COUNTY OF SACRAMENTO (hereinafter referred to as the “**Grantor**”), and SACRAMENTO PUBLIC LIBRARY AUTHORITY (hereinafter referred to as the “**Grantee**”).

WITNESSETH THAT:

WHEREAS, the Grantee intends to renovate, improve and equip space in Building H at the former Rio Linda Elementary School site located at 631 L Street, Rio Linda, California (the “**Site**”) for a library (the “**Project**”);

WHEREAS, the Grantee will enter into that certain Lease Agreement (the “**Lease Agreement**”) with the Twin Rivers Unified School District (the “**District**”) to lease the Site from the District and the District has agreed to build the Project on the Site in accordance with the terms of the Lease Agreement;

WHEREAS, in order to provide funding for the Project, the Grantor has agreed to provide a grant to Grantee in the amount of \$1,259,925 (the “**Grant Funds**”);

WHEREAS, the Grantee acknowledges that the Grant Funds constitute the original proceeds of tax-exempt bonds of the Tobacco Securitization Authority of Northern California (specifically, the Tobacco Securitization Authority of Northern California Tobacco Settlement Asset-Backed Bonds (Sacramento County Tobacco Securitization Corporation) Series 2001A (the “**2001A Bonds**”)), which were received by the Grantor, which 2001A Bonds were later refinanced with obligations issued for the benefit of the Grantor in 2005 (the “**Bonds**”) and that the Grantor has covenanted in connection with the issuance of the Bonds to take all actions necessary to maintain the tax exemption of such bonds;

WHEREAS, as a condition precedent to the grant of the Grant Funds to the Grantee, the Grantor has required Grantee to enter into an agreement setting forth the terms and conditions for the provision and use of the Grant Funds, including any interest earned thereon (together, the “**Total Grant Funds**”);

NOW, THEREFORE, in consideration of the mutual promises of the Grantor and the Grantee (collectively referred to herein as the “**Parties**”), the Parties hereby agree as follows:

Section I. Period of Agreement

This Agreement shall be effective as of the Effective Date and shall remain in effect until the end of the term of the Lease Agreement, unless earlier terminated by the Grantor (the “**End of Grant Period**”).

Section II. Grant of Funds

A. The Grantor shall provide to the Grantee the Grant Funds solely for use on capital costs of the Project. “Capital costs” means a cost that is capitalized into the asset on the books of the owner of the asset, and not expensed as an operating expense.

B. The provision of the Grant Funds by the Grantor shall be subject to the terms of Section VI of this Agreement related to the suspension or termination of grant funding and the reversion of Grant Funds, the provisions of Section IX of this Agreement related to default and the provisions of Section VII related to unspent Grant Funds.

Section III. Expenditure of Total Grant Funds

A. The Grantee shall expend the Total Grant Funds solely on capital costs of the Project in accordance with this Agreement. In no event shall any of the Total Grant Funds be expended for any other purpose.

Section IV. Reporting Requirements

A. Closeout Report

1. The Grantee shall submit a report (the “**Closeout Report**”) no later than thirty (30) days after the final completion of the Project.
2. The Closeout Report shall cover the period beginning on the Effective Date and ending on the date of the Closeout Report.
3. The Closeout Report shall include copies of any construction contracts for the Project and an expense report containing a listing of and documentation, including invoices, for each expenditure of the Total Grant Funds.

B. Review and Approval of Reports

The Closeout Report shall be subject to the review and acceptance of the Grantor.

Section V. Accounting Requirements

A. The Grantee shall establish a separate fund and account for the Total Grant Funds independent of other funds of the Grantee.

B. The Grantee shall maintain complete and accurate records and documentation of the expenditure of the Total Grant Funds and make those available to the Grantor upon request.

Section VI. Suspension or Termination of Grant Funding; Reversion of Funds

A. If the Grantee performs its obligations under this Agreement in accordance with the terms of this Agreement, the Grantee is not obligated to repay the Grant Funds to the Grantor. In the event that the Grantee is in default, as described in Section IX of this Agreement, the Grantor may, at its sole discretion, suspend or terminate funding to the Grantee and may demand in writing the repayment or return of some or all of the Grant Funds, whether or not such Grant Funds have been previously obligated or committed by the Grantee, and any income generated by the Grant Funds.

B. The Grantee shall repay all funds demanded by the Grantor under paragraph A of this Section VI to the Grantor upon receipt of the Grantor's written demand and in accordance with the Grantor's written instructions.

Section VII. Unspent Grant Funds

At the End of Grant Period, or upon final completion of the Project, whichever is earlier, should the Grantor have advanced Grant Funds to the Grantee which have not been spent by Grantee, then the Grantee shall immediately return such unspent Grant Funds to the Grantor.

Section VIII. Grant Administrator

The Grant Administrator for this Grant is [Chris Marx]. The telephone number of the Grantor is [916-874-5239]. The Grantee shall contact the Grant Administrator with any questions or concerns regarding the technical implementation or interpretation of this Grant.

Section IX. Default; Remedy; Non-Waiver

A. Any failure by the Grantee or its agents to comply with any of the terms or conditions of this Agreement, as such failure is determined in the sole and reasonable discretion of the Grantor, shall constitute a default under this Agreement.

B. In the event of a default, the Grantor may provide to the Grantee written notice of the default, along with a demand to cure by a date established in the Grantor's sole and reasonable discretion, but in no event less than ten (10) Business Days. If the default is not cured or remedied according to the time limit established in the notice and demand, the Grantee shall return to the Grantor any remaining Grant Funds in the possession of the Grantee, the Grantor shall not be obligated to provide any additional Grant Funds to the Grantee, the Grantor may exercise any additional right to reversion under Section VI of this Agreement, and the Grantor may exercise any other legal or equitable remedies available to the Grantor.

C. No delay or omission of the Grantor to exercise any right, power, or remedy accruing upon the happening of a default shall impair any such right, power, or remedy or shall be construed to be a waiver of, or acquiescence to, any such default.

Section X. Notices

All notices required under this Agreement shall be in writing to the following addresses:

As to Grantee:

SACRAMENTO PUBLIC LIBRARY AUTHORITY
828 I Street
Sacramento, CA 95814
Attn: Rivkah Sass, Director

As to Grantor:

COUNTY OF SACRAMENTO
700 H Street, Suite 7650
Sacramento, CA 95814
Attn: Navdeep Gill, Chief Operations Officer
Chris Marx, County Debt Officer

Section XI. Nonassignability

This Agreement may not be assigned by the Grantee to any person, corporation, partnership, or any other entity, including any assignment caused by a change in the corporate structure of the Grantee, unless the Grantor agrees in writing to the assignment.

Section XII. Modification

A. The terms and conditions of this Agreement may not be modified, waived, or terminated, in whole or in part, unless agreed to in writing by the Parties.

B. The Grantee shall not change the Project without the prior written approval of the Grantor. All such requests shall be signed and dated.

Section XIII. Tax-Exempt Funds

The Grantee acknowledges that the Grant Funds constitute the proceeds of the Bonds, and that the Grantor has covenanted in connection with the issuance of the Bonds to take all actions necessary to maintain the tax exemption of such bonds. In executing this Agreement, the Grantee is acknowledging that the Project is being financed with proceeds of the Bonds. The Grantee hereby covenants that the Project will not be sold unless it receives the prior written

consent of the Grantor. In addition, the Grantee will not allow more than 10% of the amount of the Total Grant Funds (representing the portion of the Project financed with Bond proceeds) to be used directly or indirectly by any nongovernmental person in any trade or business, other than as a member of the general public. For purposes of the preceding sentence, “10%” is reduced to “5%” for nongovernmental use of the Project that is disproportionate to or not related to the current purpose of the Project. A nongovernmental person is treated as “using” the Project if it is or it serves as the owner, a lessee, a service provider, operator or manager of the Project.

Section XIV. Non-Waiver

None of the terms and conditions contained in this Agreement shall be considered abrogated or waived by reason of any failure, delay or refusal by the Grantor to enforce the same.

Section XV. Applicable Law

The provisions of this Agreement shall be governed and construed under the laws of the State of California.

Section XVI. Severability

In the event that any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, all remaining provisions of this Agreement shall be valid, binding, and enforceable against the parties hereto.

Section XVII. Total Agreement

This Agreement constitutes the total and entire agreement between the Parties. All previous discussions, writings, and agreements are merged herein.

[Signatures Follow On Next Page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed, acknowledged, and delivered in their names by their duly authorized representatives.

COUNTY OF SACRAMENTO

By: _____
Name: _____
Title: _____

**SACRAMENTO PUBLIC LIBRARY
AUTHORITY**

By: _____
Name: _____
Title: _____

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Sacramento Public Library Authority

RESOLUTION NO. 12-13

Adopted by the Governing Board of the Sacramento Public Library Authority on the date of:

April 26, 2012

A RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT BETWEEN THE TWIN RIVERS UNIFIED SCHOOL DISTRICT AND THE SACRAMENTO PUBLIC LIBRARY AUTHORITY FOR BUILDING H AT RIO LINDA ELEMENTARY SCHOOL FOR THE PURPOSE OF OPERATING A PUBLIC LIBRARY

BE IT HEREBY RESOLVED BY THE GOVERNING BOARD OF THE SACRAMENTO PUBLIC LIBRARY AUTHORITY AS FOLLOWS:

1. The execution of a Lease Agreement by and between the Twin Rivers Unified School District and the Sacramento Public Library Authority for Building H at Rio Linda Elementary School for the purpose of operating a public library is authorized.
2. The Library Director is authorized to sign all documents related to this lease document within the approved terms.

Sophia Scherman, Chair

ATTEST:

Rivkah K. Sass, Secretary

By: _____
Brenda Haggard, Assistant Secretary

ATTACHMENTS:

Exhibit A: Proposed Lease Agreement by and between Twin Rivers Unified School District and the Sacramento Public Library Authority

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