

RESOLUTION NUMBER R- 309248DATE OF FINAL PASSAGE OCT 08 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, ACTING IN ITS CAPACITY AS THE BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, APPROVING THE AGREEMENT REGARDING EXPENDITURE OF EXCESS REDEVELOPMENT BOND PROCEEDS AND CERTAIN RELATED ACTIONS.

WHEREAS, from its formation in 1958 until its elimination on February 1, 2012, the Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas throughout the City of San Diego (City); and

WHEREAS, the Former RDA dissolved as of February 1, 2012, in accordance with a deadline for elimination of all redevelopment agencies throughout California set forth in Assembly Bill x1 26 (AB 26), as modified by the California Supreme Court in a final opinion issued on December 29, 2011; and

WHEREAS, at the time of the Former RDA's dissolution, the City, in its capacity as the successor agency to the Former RDA (Successor Agency), became vested with all of the Former RDA's authority, rights, powers, duties, and obligations under the California Community Redevelopment Law and, by operation of law, received all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former RDA; and

WHEREAS, the Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, and subsequent legislation (collectively, the Dissolution Laws); and

WHEREAS, the seven-member Oversight Board, the San Diego County Auditor-Controller (County Auditor), the State Controller, and the State Department of Finance (DOF) possess certain rights and obligations under the Dissolution Laws with respect to the Successor Agency's administration of the Former RDA's operations; and

WHEREAS, the Dissolution Laws require the Successor Agency to prepare on a forward-looking basis, and to submit for approval by the Oversight Board and the DOF, a Recognized Obligation Payment Schedule (ROPS) identifying payments owed by the Successor Agency to third parties toward enforceable obligations during each upcoming six-month period; and

WHEREAS, consistent with California Health and Safety Code (Code) section 34179.7, the DOF issued a finding of completion to the Successor Agency on December 2, 2013, signifying the Successor Agency's completion of three lump-sum payments of unencumbered funds to the County Auditor for pro rata distribution to the local taxing entities; and

WHEREAS, Code section 34191.4(c)(1) authorizes the Successor Agency, as the recipient of a finding of completion, to use certain unencumbered bond proceeds for the purposes for which the bonds were sold; and

WHEREAS, under Code section 34191.4(c)(2), the Successor Agency may designate the use of, and commit all bond proceeds that were derived from, bonds issued for non-housing redevelopment purposes on or before December 31, 2010 that remain available after the satisfaction of approved enforceable obligations (Excess Bond Proceeds); and

WHEREAS, Code section 34191.4(c)(2) allows the Successor Agency to create excess bond proceeds obligations for purposes consistent with the original bond covenants, to be paid from Excess Bond Proceeds, and requires the Successor Agency to list excess bond proceeds obligations separately on the ROPS; and

WHEREAS, the Successor Agency possesses Excess Bond Proceeds (i.e., pre-2011 non-housing redevelopment bond proceeds) in the estimated total amount of \$60,721,656; and

WHEREAS, the estimated amount of Excess Bond Proceeds includes proceeds shown in the Successor Agency's cash balance report as of June 30, 2014, at the end of the ROPS 13-14B time period, and does not reflect the potential expenditure of proceeds during the current ROPS 14-15A time period or the potential defeasance of certain proceeds related to two downtown parking garages during the upcoming ROPS 14-15B time period; and

WHEREAS, the Successor Agency desires to provide the Excess Bond Proceeds to the City to enable the City to use such funds, in a manner consistent with the basic purposes for which the bonds were sold, to undertake redevelopment projects, activities, and programs that were not previously funded and obligated by the City and the Successor Agency or that are currently in progress under existing contracts and need to be completed in a timely fashion; and

WHEREAS, the City and the Successor Agency now propose to enter into the Agreement Regarding Expenditure of Excess Redevelopment Bond Proceeds (Agreement), a copy of which is included as Attachment A to Staff Report No. CSD-14-10/20 dated September 24, 2014, to accomplish the Successor Agency's transfer of the Excess Bond Proceeds to the City and the City's expenditure of the Excess Bond Proceeds in accordance with the Bond Spending Plan included as Exhibit 2 to the Agreement; and

WHEREAS, the Agreement is intended to create an excess bond proceeds obligation under Code section 34191.4(c)(2), to be paid from the Excess Bond Proceeds, and is identified in line item 620 of ROPS 14-15B covering the time period of January through June 2015; and

WHEREAS, under Section 5 of the Agreement, the City must promptly deposit all Excess Bond Proceeds into a dedicated account or accounts separate from the City's General

Fund, and must use the Excess Bond Proceeds in accordance with the Bond Spending Plan and solely in a manner consistent with the basic purposes for which the bonds were sold and the applicable provisions of the California Community Redevelopment Law; and

WHEREAS, Section 5 of the Agreement allows the City, in its sole discretion, to modify the Bond Spending Plan to allow the transfer of funds between projects, activities, and programs so long as sufficient Excess Bond Proceeds are available and the transfer is consistent with applicable laws and the basic purposes for which the bonds were sold; and

WHEREAS, unless the City expressly agrees otherwise, the City will not be obligated to provide funding for any project, activity, or program in an amount greater than the Excess Bond Proceeds transferred to the City under the Agreement; and

WHEREAS, under Section 8 of the Agreement, the Successor Agency will assign to the City (subject to any contractual restrictions on assignment), and the City will assume, any contracts executed by the Successor Agency or the Former RDA related to activities to be funded by the Excess Bond Proceeds; and

WHEREAS, at the City's option, the assignment of any contract may involve only a partial assignment of the contractual payment obligation, which will be payable by the City from the Excess Bond Proceeds; and

WHEREAS, the Agreement will become effective only if the Oversight Board and the DOF approve the Agreement as an excess bond proceeds obligation and approve the transfer of Excess Bond Proceeds to the City per line item 620 of ROPS 14-15B; and

WHEREAS, if the Oversight Board and the DOF grant these approvals, the Successor Agency anticipates transferring the Excess Bond Proceeds to the City in early January 2015;

NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, acting in its capacity as the board of the Successor Agency, as follows:

1. The Council approves the Agreement, which requires the Successor Agency's transfer of the Excess Bond Proceeds to the City and the City's expenditure of the Excess Bond Proceeds in accordance with the Bond Spending Plan included as Exhibit 2 to the Agreement.

2. The Mayor or designee is authorized and directed to execute the Agreement, on the Successor Agency's behalf, and to carry out the Successor Agency's obligations under the Agreement. The executed Agreement shall be filed in the Office of the City Clerk as Document No. RR- 309247

3. The City Comptroller is authorized to cause the Successor Agency's transfer of the Excess Bond Proceeds to the City under the Agreement.

4. The Mayor or designee is authorized to execute, on the Successor Agency's behalf, all documents that effectuate the provisions and intent of the Agreement, including documents that accomplish the Successor Agency's assignment or partial assignment to the City of any contracts executed by the Successor Agency or the Former RDA related to activities to be funded by the Excess Bond Proceeds.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Kevin Reisch  
Kevin Reisch  
Chief Deputy City Attorney

KJR:nja  
09/24/14  
Or.Dept: Civic San Diego  
Doc. No. 867333  
Comp. R-2015-164

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 30 2014.

ELIZABETH S. MALAND  
City Clerk

By *Mary Fernandez*  
Deputy City Clerk

Approved: 10/8/14  
(date)

*Kevin L. Faulconer*  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on SEP 30 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 08 2014

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

(Seal)

By *Mary J. ...*, Deputy

Office of the City Clerk, San Diego, California

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