

RESOLUTION NUMBER R- 309906

DATE OF FINAL PASSAGE AUG 07 2015

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 FIRST AMENDMENT TO AGREEMENT REGARDING EXPENDITURE OF EXCESS REDEVELOPMENT BOND PROCEEDS.

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 *California Redevelopment Assn. v. Matosantos*, 53 Cal.4th 231 (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, 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 unencumbered non-housing bond proceeds issued before 2011 (Excess Bond Proceeds) for the purposes for which the bonds were sold; and

WHEREAS, after the Successor Agency obtained the advance approval of the Oversight Board and the DOF, the City and the Successor Agency entered into that certain Agreement Regarding Expenditure of Excess Redevelopment Bond Proceeds dated November 14, 2014 (Original Agreement), on file in the Office of the City Clerk as Document No. RR-309247; and

WHEREAS, pursuant to the Original Agreement, the Successor Agency agreed to transfer to the City the available Excess Bond Proceeds, and the City agreed to expend the Excess Bond Proceeds in accordance with the Bond Spending Plan (Exhibit 2 to the Original Agreement) and consistent with the basic purposes for which the bonds were sold and the applicable provisions of the California Community Redevelopment Law; and

WHEREAS, in January 2015, the Successor Agency transferred the Excess Bond Proceeds in the amount of \$55,240,760.81 to the City, at which time the City started to expend the Excess Bond Proceeds in accordance with the Original Agreement; and

WHEREAS, the City and the Successor Agency now propose to enter into the First Amendment to Agreement Regarding Expenditure of Excess Redevelopment Bond Proceeds (First Amendment), a copy of which is included as Attachment D to Staff Report No. CSD-15-17 dated July 29, 2015 accompanying this Resolution, for three purposes: (i) to provide an updated version of Exhibit 1 to the Original Agreement, which reflects the actual amount of the Excess Bond Proceeds transferred to the City; (ii) to provide an updated version of Exhibit 2 to the Original Agreement, which reflects additions, deletions, and consolidations of line items pertaining to potential redevelopment projects, activities, and programs on which the Excess Bond Proceeds may be expended; and (iii) to allow any portion of the Excess Bond Proceeds to be used, at the Successor Agency's election at any time, to defease (i.e., pay down) any of the Successor Agency's outstanding bonds from which the Excess Bond Proceeds were derived, as permitted by Code sections 34177(i) and 34191.4(c)(2); and

WHEREAS, the First Amendment will become effective only if the Oversight Board and the DOF approve the First Amendment; 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 First Amendment to Agreement Regarding Expenditure of Excess Redevelopment Bond Proceeds (First Amendment).

2. The Mayor or designee is authorized and directed to execute the First Amendment, on the Successor Agency's behalf, and to carry out the Successor Agency's obligations under the First Amendment. The executed First Amendment shall be filed in the Office of the City Clerk as Document No. RR- 309905.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Kevin Reisch  
Kevin Reisch  
Chief Deputy City Attorney

KJR:nja  
07/21/15  
Or.Dept: Civic San Diego  
Doc. No. 1061741  
Comp. R-2016-45

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of AUG 03 2015

ELIZABETH S. MALAND  
City Clerk

By Elizabeth Beach  
Deputy City Clerk  
Kevin L. Faulconer  
KEVIN L. FAULCONER, Mayor

Approved: 8/6/15  
(date)

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

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

Passed by the Council of The City of San Diego on AUG 03 2015, 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"/> |
| Lorie Zapf      | <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"/> |
| Chris Cate      | <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 type="checkbox"/>            | <input checked="" 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 AUG 07 2015

(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:

(Seal)

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Sty Brady*, Deputy

Office of the City Clerk, San Diego, California

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