

RESOLUTION NO. 36

A RESOLUTION OF THE PALM SPRINGS OVERSIGHT BOARD APPROVING A BOND EXPENDITURE AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE PALM SPRINGS COMMUNITY REDEVELOPMENT AGENCY AND THE CITY OF PALM SPRINGS.

WHEREAS, pursuant to Assembly Bill 1X 26, enacted on June 28, 2011, and Assembly Bill 1484, enacted on June 27, 2012, (collectively the "Dissolution Act"), the Community Redevelopment Agency of the City of Palm Springs ("Redevelopment Agency") was dissolved on February 1, 2012; and

WHEREAS, on January 4, 2012, under the authority of the Dissolution Act and by adoption of Resolution No. 23071, the City of Palm Springs declared itself to be the Successor Agency to the Redevelopment Agency ("Successor Agency") upon the Redevelopment Agency's dissolution; and

WHEREAS, the Oversight Board to the Successor Agency was established under the Dissolution Act to direct and oversee the Successor Agency's action in winding down the affairs of the Redevelopment Agency and to perform other related functions; and

WHEREAS, pursuant to Health and Safety Code section 34191.4(c), after a successor agency has received a finding of completion from the state Department of Finance ("DOF"), a successor agency, with the approval of its oversight board, to list enforceable obligations to expend excess bond proceeds on its Recognized Obligation Payment Schedule ("ROPS"), so long as such expenditures are consistent with the bond covenants; and

WHEREAS, the Successor Agency received a Finding of Completion from DOF on January 2, 2014; and

WHEREAS, the Successor Agency has excess bond proceeds from the Redevelopment Agency's Merged Project No. 2 Taxable Tax Allocation Bonds, 2007 Series C; and

WHEREAS, the Successor Agency and City desire to have all the excess bond proceeds held by the Successor Agency transferred to the City, to be expended in a manner consistent with the applicable bond covenants; and

WHEREAS, the proposed Agreement Regarding Expenditure of Excess Bond Proceeds has been submitted to the Oversight Board for its approval.

NOW, THEREFORE BE IT RESOLVED, THE PALM SPRINGS OVERSIGHT BOARD HEREBY FINDS AND RESOLVES AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and incorporated herein.

SECTION 2. The Agreement Regarding Expenditure of Excess Bond Proceeds, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, is hereby approved and the Successor Agency is hereby authorized to execute said agreement.

SECTION 3. All legal prerequisites to the adoption of this Resolution have been satisfied.

SECTION 4. The City Manager of the Successor Agency or designee is hereby authorized to take such actions as are necessary and appropriate to implement this decision of the Oversight Board, including, but not limited to, listing the Agreement Regarding Expenditure of Excess Bond Proceeds on the Successor Agency's ROPS as an enforceable obligation.

SECTION 5. This Resolution shall become effective in accordance with Health and Safety Code section 34179(h), which authorizes DOF to review all actions taken by the Oversight Board.

PASSED, APPROVED AND ADOPTED BY THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE PALM SPRINGS COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS THIS 15th DAY OF SEPTEMBER, 2015.



CATHY VAN HORN,
OVERSIGHT BOARD VICE CHAIR

ATTEST:



JAMES THOMPSON, CLERK/SECRETARY

CERTIFICATION

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

I, JAMES THOMPSON, Clerk/Secretary of the Oversight Board for the Successor Agency of the Palm Springs Community Redevelopment Agency hereby certify that Resolution No. 36 was adopted by the Oversight Board at a Special Meeting held on the 15TH day of September, 2015, by the following vote:

AYES: Board Members Arthur, Marshall, Ready, and Vice Chair Van Horn.
NOES: None.
ABSENT: Board Member Foat, and Chair Howell.
ABSTAIN: None.



JAMES THOMPSON
OVERSIGHT CLERK/SECRETARY
City of Palm Springs, California

AGREEMENT REGARDING EXPENDITURE OF EXCESS BOND PROCEEDS

This Agreement Regarding Expenditure of Excess Bond Proceeds ("Agreement") is entered into as of September 2, 2015, by and between the Successor Agency to the Palm Springs Community Redevelopment Agency ("Successor Agency") and the City of Palm Springs, a municipal corporation and charter city ("City"). The Successor Agency and the City are hereinafter collectively referred to as the "Parties."

RECITALS

- A. Pursuant to the Community Redevelopment Law (Health & Safety Code §33000 et al.) ("CRL"), the former Community Redevelopment Agency of the City of Palm Springs ("Redevelopment Agency") had responsibility to implement the Merged Project No. 2 Redevelopment Plan, originally adopted by Ordinance No. 1583 enacted by the City Council of the City of Palm Springs ("City Council") which consolidated the original Tahquitz-Andreas Redevelopment Project, the Baristo-Farrell Redevelopment Project and the Canyon Redevelopment Project.
- B. Pursuant to an Indenture of Trust, dated as of May 1, 2004, as supplemented by a First Supplement to Indenture of Trust dated as of August 1, 2007 (as amended and supplemented, the "Indenture"), and executed by and between the Redevelopment Agency and The Bank of New York Mellon Trust Company, N.A., as Trustee, the Agency issued Merged Project No. 2 Taxable Tax Allocation Bonds, 2007 Series C (the "2007 Bonds"). The 2007 Bonds were to be used for financing the Redevelopment Project.
- C. Proceeds of the 2007 Bonds were to be used to aid in the financing of the Redevelopment Project, and particularly, provided funding for the City to acquire the Suitt-Block Parcel adjacent to the Convention Center.
- D. The Suitt-Block Parcel will be used for additional parking for the Convention Center.
- E. The Suitt-Block Parcel requires paving to make it suitable for use as a parking lot to serve the Convention Center.
- F. Pursuant to Resolution No. 23071, adopted by the City Council on January 4, 2012, the City agreed to serve as the Successor Agency to the Redevelopment Agency commencing upon dissolution of the Redevelopment Agency on February 1, 2012 pursuant to Assembly Bill 1X 26.
- G. Health and Safety Code section 34191.4(c) provides that once the Successor Agency has been issued a Finding of Completion by the California Department of Finance ("DOF") the Successor Agency is authorized to use bond proceeds for the purposes for which the bonds were sold. Further, the Successor Agency may designate the use of and commit indebtedness obligation proceeds that were derived from indebtedness issued for redevelopment purposes on or before December 31, 2010, and that remain available after the satisfaction of enforceable obligations that have been approved on a Recognized Obligation Payment Schedule ("ROPS") and that are consistent with the indebtedness obligation covenants (hereafter "Excess Bond Proceeds").

- H. The DOF issued a Finding of Completion to the Successor Agency on January 2, 2014.
- I. Health and Safety Code section 34191.4(c) further provides that the expenditure of Excess Bond Proceeds must be listed separately on the applicable ROPS.
- J. The Parties desire to enter into this Agreement to use the Excess Bond Proceeds for the purposes identified in and consistent with the covenants contained in the Indenture and related documents (the "Bond Covenants") and the requirements of the CRL, and to provide for the Successor Agency to transfer the Excess Bond Proceeds to the City to be used for such purposes.
- K. As of June 30, 2015, the Successor Agency had \$1.04 million of Excess Bond Proceeds available from the 2007 Bonds.
- L. This Agreement was approved by the Oversight Board to the Successor Agency in a public meeting on September 15, 2015.
- M. The execution of this Agreement was approved in a public meeting of the City Council and the Successor Agency on September 2, 2015.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises herein contained, the Parties hereby agree as follows:

1. Recitals. The Recitals above are true and correct and are incorporated herein by reference.
2. Effective Date. This Agreement shall become effective upon the date set forth pursuant to Health and Safety Code section 34179(h).
3. Term. The term of this Agreement shall commence on the Effective Date, and shall continue in effect until the date that all Excess Bond Proceeds are expended in accordance with the requirement of this Agreement.
4. Use of Excess Bond Proceeds. The City agrees that it shall use the Excess Bond Proceeds solely for the purposes identified in Recital E above, or for other projects consistent with the 2007 Bond covenants and the provisions of the CRL that apply to the expenditure of redevelopment funds.
5. Transmittal of Excess Bond Proceeds. Upon the Effective Date, the Successor Agency shall transfer the Excess Bond Proceeds (including any interest accrued thereon by the Effective Date or received with respect thereto after the Effective Date) to the City, and the City shall deposit such funds into a separate Excess Bond Proceeds Capital Improvement Account for the City's use in accordance with the terms, conditions and purposes set forth in this Agreement.
6. Project Approvals; Environmental Review. This Agreement is not intended to limit in any manner the discretion of the City in connection with the issuance of approvals and entitlements for the projects described in this Agreement, nor to avoid legally required processes attendant to project approval, including, without limitation, the undertaking and completion of any required environmental review pursuant to the California Environmental Quality Act and the National

Environmental Protection Act, as applicable, and the review and approval of plans and specifications.

7. Severability. If any term, provision, covenant, or condition set forth in this Agreement is held by the final judgment of a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions, covenants, and conditions shall continue in full force and effect to the extent that the basic intent of the Parties as expressed herein can be accomplished. In addition, the Parties shall cooperate in good faith in an effort to amend or modify this Agreement in a manner such that the purpose of any invalidated or voided provision, covenant or condition can be accomplished to the maximum extent legally permissible.

8. No Third-Party Beneficiaries; Assignments. Nothing in this Agreement is intended to create any third-party beneficiaries to this Agreement, and no person or entity other than the Successor Agency and the City, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

9. Further Assurances. Each Party agrees to execute, acknowledge and deliver all additional documents and instruments, and to take such other actions as may be reasonably necessary to carry out the intent of the transactions contemplated by this Agreement.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

12. Amendment. This Agreement may be modified or amended, in whole or in part, only by an instrument in writing, executed by the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

[Signatures on following page]

CITY OF PALM SPRINGS

**SUCCESSOR AGENCY TO THE PALM
SPRINGS COMMUNITY REDEVELOPMENT
AGENCY**

By: _____
David H. Ready, City Manager

By: _____
David H. Ready, Executive Director

Attest:

By: _____
James Thompson, City Clerk

By: _____
James Thompson, Clerk/Secretary
Oversight Board

Approved as to Form:

By: _____
Douglas C. Holland, City Attorney