

RESOLUTION NO. SARDA2015-007

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE HIGHLAND REDEVELOPMENT AGENCY APPROVING THE EXECUTION AND DELIVERY OF A BOND PROCEEDS FUNDING AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE HIGHLAND REDEVELOPMENT AGENCY AND THE CITY OF HIGHLAND AND TAKING CERTAIN RELATED ACTIONS

WHEREAS, the Highland Redevelopment Agency (the “Former Agency”) was a duly constituted redevelopment agency pursuant to provisions of the Community Redevelopment Law (the “Redevelopment Law”) set forth in Section 33000 et seq. of the Health and Safety Code (“HSC”) of the State of California (the “State”); and

WHEREAS, the Former Agency previously issued its Highland Redevelopment Project Area No. 1 Tax Allocation Bonds, Series 2004A, its Highland Redevelopment Project Area No. 1 Tax Allocation Refunding Bonds, Series 2004B, and its Highland Redevelopment Project Area No. 1 Tax Allocation Refunding Bonds, Series 2007 (together, the “Bonds”); and

WHEREAS, the Bonds were issued pursuant to an Indenture, dated as of June 1, 1994, as supplemented by a First Supplemental Indenture, dated as of May 1, 2004, a Second Supplemental Indenture, dated as of May 1, 2004 and a Third Supplemental Indenture, dated as of June 1, 2007 (together, the “Indenture”), each by and between the Former Agency and U.S. Bank National Association, as trustee; and

WHEREAS, the Bonds were issued and sold to: (i) refund certain prior bonded indebtedness of the Former Agency, and (ii) finance projects of benefit to the Former Agency’s Project Area; and

WHEREAS, pursuant to AB X1 26 (which became effective in June 2011), and the California Supreme Court’s decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.* (53 Cal. 4th 231(2011)), the Former Agency was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Former Agency, and an oversight board of the Successor Agency (the “Oversight Board”) was established; and

WHEREAS, AB 1484 (which became effective in June 2012) amended and supplemented the provisions of AB X1 26 (together, AB X1 26 and AB 1484 being referred to herein as the “Dissolution Act”); and

WHEREAS, pursuant to Section 34175(b) of the California Health and Safety Code (“HSC”), all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former Agency, including the unspent proceeds of the Bonds (the “Bond Proceeds”), transferred to the control of the Successor Agency by operation of law; and

WHEREAS, pursuant to HSC Section 34191.4, after the receipt by the Successor Agency of a finding of completion (the “Finding of Completion”) issued by the California State Department of Finance (the “DOF”) under HSC Section 34179.7, Bond Proceeds shall be used for the purposes for which the Bonds were sold, in a manner consistent with the bond covenants; and

WHEREAS, by DOF's letter, dated May 24, 2013, the DOF informed the Successor Agency that the DOF has issued a Finding of Completion to the Successor Agency; and

WHEREAS, there remains a balance of Bond Proceeds (the "Remaining Bond Proceeds") in the Successor Agency's accounts; and

WHEREAS, the Successor Agency desires to proceed with the use of the Remaining Bond Proceeds for the purposes for which the Bonds were sold, namely projects of benefit to the Project Area that are consistent with the bond covenants (collectively, the "Projects"); and

WHEREAS, because of the limited staffing of the Successor Agency and the City's traditional role and established procedures with respect to the awarding of public works contracts, the Successor Agency and the City desire to enter into a Bond Proceeds Funding Agreement (the "Funding Agreement"), for the City to perform or cause to be performed the work required to complete the Projects, with payment therefor to be made from the Remaining Bond Proceeds; and

WHEREAS, the Funding Agreement provides for the transfer of Remaining Bond Proceeds to the City for the City to perform or cause to be performed the work required to complete the Projects; and

WHEREAS, pursuant to HSC Sections 34178(a) and 34180(h), with the approval of the Oversight Board, the Successor Agency may enter into agreements with the City.

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE HIGHLAND REDEVELOPMENT AGENCY, HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are a substantive part of this Resolution.

SECTION 2. The Funding Agreement, in the form attached hereto as Exhibit A, is hereby approved. Each of the Chair of this Board, the Vice Chair of this Board and the Executive Director of the Successor Agency (each, an Authorized Officer"), individually, is hereby authorized to execute and deliver, for and in the name of the Successor Agency, the Funding Agreement in substantially such form, with changes therein as the Authorized Officer may approve (such approval to be conclusively evidenced by the execution and delivery thereof).

SECTION 3. The Oversight Board is hereby requested to approve the Successor Agency's execution and delivery of the Funding Agreement. The Secretary of the Successor Agency is hereby directed to transmit this Resolution to the Oversight Board for consideration at the earliest possible date.

SECTION 4. The Authorized Officers and all other officers of the Successor Agency are hereby authorized, jointly and severally, to execute and deliver any and all necessary documents and instruments and to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution and the Funding Agreement.

PASSED, APPROVED AND ADOPTED on this 11th day of August, 2015.


Larry McCallon
Chairman

ATTEST:


Betty Hughes, MMC
Secretary

EXHIBIT A

BOND PROCEEDS FUNDING AGREEMENT

(see attached)

BOND PROCEEDS FUNDING AGREEMENT

This BOND PROCEEDS FUNDING AGREEMENT (this “Agreement”), dated as of August 11, 2015, is entered into by and between the City of Highland (the “City”) and the Successor Agency to the Highland Redevelopment Agency (the “Successor Agency,” and together with the City, the “Parties”).

RECITALS:

A. The former Highland Redevelopment Agency (the “Former Agency”) previously issued its Highland Redevelopment Project Area No. 1 Tax Allocation Bonds, Series 2004A, its Highland Redevelopment Project Area No. 1 Tax Allocation Refunding Bonds, Series 2004B, and its Highland Redevelopment Project Area No. 1 Tax Allocation Refunding Bonds, Series 2007 (together, the “Bonds”).

B. The Bonds were issued pursuant to an Indenture, dated as of June 1, 1994, as supplemented by a First Supplemental Indenture, dated as of May 1, 2004, a Second Supplemental Indenture, dated as of May 1, 2004 and a Third Supplemental Indenture, dated as of June 1, 2007 (together, the “Indenture”), each by and between the Former Agency and U.S. Bank National Association, as trustee.

C. The Bonds were issued and sold to: (i) refund certain prior bonded indebtedness of the Former Agency, and (ii) finance projects of benefit to the Former Agency’s Project Area No. 1.

D. Pursuant to AB X1 26 (enacted in June 2011), as modified by the California Supreme Court’s decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal.4th 231(2011), the Former Agency was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Former Agency, and an oversight board of the Successor Agency (the “Oversight Board”) was established.

E. AB 1484 (enacted in June 2012) amended and supplemented the provisions of AB X1 26. Together, AB X1 26 and AB 1484 are referred to herein as the “Dissolution Act.”

F. Pursuant to Section 34175(b) of the California Health and Safety Code (“HSC”), all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former Agency, including the unspent proceeds of the Bonds (the “Bond Proceeds”), transferred to the control of the Successor Agency by operation of law.

G. Pursuant to HSC Section 34191.4, after the receipt by the Successor Agency of a finding of completion (the “Finding of Completion”) issued by the California State Department of Finance (the “DOF”) under HSC Section 34179.7, Bond Proceeds shall be used for the purposes for which the Bonds were sold, in a manner consistent with the bond covenants.

H. By DOF’s letter, dated May 24, 2013, the DOF informed the Successor Agency that the DOF has issued a Finding of Completion to the Successor Agency.

I. There remains a balance of Bond Proceeds (the “Remaining Bond Proceeds”) in the Successor Agency’s accounts.

J. The Successor Agency desires to proceed with the use of the Remaining Bond Proceeds for the purposes for which the Bonds were sold, namely projects of benefit to the Project Area that are consistent with the bond covenants (collectively, the “Projects”), including those listed in Exhibit A.

K. Because of the limited staffing of the Successor Agency and the City’s traditional role and established procedures with respect to the awarding of public works contracts, the Successor Agency and the City desire to enter into this Agreement, for the City to perform or cause to be performed all work required to complete the Projects, with payment therefor to be made from the Remaining Bond Proceeds.

L. This Agreement provides for the transfer of Remaining Bond Proceeds to the City for the City to perform or cause to be performed the work required for the Projects.

M. Pursuant to HSC Section 34177(1), the Successor Agency must prepare a Recognized Obligation Payment Schedule (“ROPS”) for each six-month fiscal period (“ROPS Period”). The ROPS must be submitted to the Oversight Board of the Successor Agency and the DOF for approval.

N. Pursuant to HSC Section 34191.4(c)(2), the expenditure of the Remaining Bond Proceeds for an obligation must be listed on a ROPS.

O. Pursuant to HSC Sections 34178(a) and 34180(h), with the approval of the Oversight Board, the Successor Agency may enter into agreements with the City.

P. Resolution No. OBSARDA2015-004 adopted by the Oversight Board on September 10, 2015 approving the Successor Agency’s execution and delivery of this Agreement was approved [deemed approved] by the DOF pursuant to HSC Section 34179(h) on _____, 2015

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

Section 1. Subject to the provisions of this Agreement and with the funding provided pursuant to this Agreement, the City agrees to perform or cause to be performed the work required for the Projects, including but not limited to the preparation of designs, plans and specifications and all demolitions, construction and installations. The City shall perform such work in accordance with all applicable federal, state and local laws, rules and regulations. Subject to the covenants set forth herein, the City shall have the sole discretion with respect to the design, planning, specification and the timing with respect to all components of the Projects.

Section 2. (a) The Successor Agency has prepared and submitted to the Oversight Board and the DOF, a ROPS (“ROPS 15-16B”) for the ROPS Period commencing January 1, 2016 (the “ROPS 15-16B Period”). Included in ROPS 15-16B as Item Nos.146-147 is the transfer of the Remaining Bond Proceeds (which amount includes estimated interest earnings through the date of transfer under Section 2(b)) to the City for the costs of the Projects.

(b) At the commencement of the ROPS 15-16 Period, the Successor Agency shall transfer the Remaining Bond Proceeds to the City, subject to any adjustment required by the DOF-approved ROPS 15-16B.

Section 3. To the extent the City still holds unspent Remaining Bond Proceeds transferred pursuant to this Agreement after the completion of the Projects (as determined by the legislative body of the City), the City shall return such unspent Remaining Bond Proceeds to the Successor Agency within a reasonable time after such determination.

Section 4. The City covenants that it shall use the Remaining Bond Proceeds in a manner consistent with the covenants in the Indenture, including, but not limited to, any covenants regarding the tax-exempt status of interest on the Bonds under the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

Section 5. Each Party shall maintain books and records regarding its duties pursuant to this Agreement. Such books and records shall be available for inspection by the officers and agents of the other Party at all reasonable times.

Section 6. The Parties agree to take all appropriate steps and execute any documents which may reasonably be necessary or convenient to implement the intent of this Agreement.

Section 7. This Agreement may be amended from time to time by written instrument executed by both Parties.

Section 8. No official, agent, or employee of the Successor Agency or the City, or members of the City Council, or members of the Successor Agency Board of Directors or Oversight Board shall be individually or personally liable for any payment hereunder in the event of any default or breach by the Successor Agency or the City, or for any amount which may otherwise become due to the City or Successor Agency, or successor thereto, or on any obligations under the terms of this Agreement.

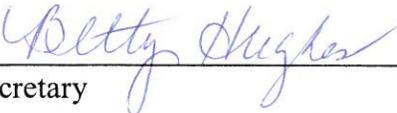
Section 9. This Agreement is made in the State of California under the Constitution and laws of the State of California, and is to be so construed.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

SUCCESSOR AGENCY TO THE HIGHLAND REDEVELOPMENT AGENCY

By 
Executive Director

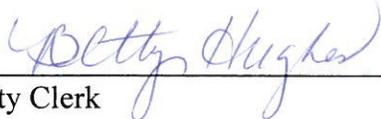
ATTEST:


Secretary

CITY OF HIGHLAND

By 
Mayor

ATTEST:


City Clerk

APPROVED:

OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE HIGHLAND REDEVELOPMENT AGENCY

By 
Chair

Date: 09.10.2015

EXHIBIT A

Description of Projects

Construction and furnishing of public improvements, including:

1. Carriage Hills storm drain
2. Base Line Trail
3. Fifth Street waterline and storm drain
4. Base Line street safety improvements
5. Street improvements at improvements at Cunningham Street, McKinley Street, Fifth Street, Greenspot Road, and Palm Avenue
6. Crosswalk improvements on Church Avenue and Base Line Street
7. Safe routes to school street improvements at Sixth and Elm Streets, and at Tenth, Dummond, Cole and Fourteenth Streets
8. Sidewalk improvements at Palm Avenue and Base Line Street
9. Bus stop improvements
10. Sidewalk repairs City-wide
11. Greenspot Road bridge
12. Base Line bridge
13. Other or different projects of benefit to the Project Area that are consistent with the bond covenants, as determined by the City

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF HIGHLAND)

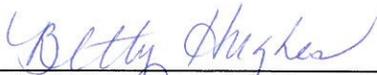
I, BETTY HUGHES, Secretary of the Successor Agency to the Highland Redevelopment Agency of the City of Highland, California, do hereby certify Successor Agency to the Redevelopment Agency Resolution No. SARDA2015-007 was duly and regularly adopted by the Successor Agency to the Highland Redevelopment Agency, Highland, California, at a regular meeting thereof held on the 11th day of August, 2015, by the following vote:

AYES: Lilburn, McCallon, Racadio, Scott, Timmer

NOES: None

ABSTAIN: None

ABSENT: None



BETTY HUGHES, MMC
SECRETARY