A G E N D A

REGULAR MEETING OF THE
ORANGE COUNTYWIDE OVERSIGHT BOARD

Tuesday, September 18, 2018, 9:30 AM

ORANGE COUNTY TRANSPORTATION AUTHORITY
550 South Main Street, Conference Room 7
Orange, California 92868

HON. BRIAN PROBOLSKY
Chair

HON. STEVE JONES
Vice Chair

CHARLES BARFIELD
Board Member

STEVE FRANKS
Board Member

CHRIS GAARDER
Board Member

DEAN WEST, CPA
Board Member

HON. PHILLIP E. YARBROUGH
Board Member

Staff
Hon. Eric H. Woolery, CPA, Auditor-Controller
Chris Nguyen
Clare Venegas

Clerk of the Board
Anthony Kuo

The Orange Countywide Oversight Board welcomes you to this meeting. This agenda contains a brief general description of each item to be considered. The Board encourages your participation. If you wish to speak on an item contained in the agenda, please complete a Speaker Form identifying the item(s) and deposit it in the Speaker Form Return box located next to the Clerk. If you wish to speak on a matter which does not appear on the agenda, you may do so during the Public Comment period at the close of the meeting. Except as otherwise provided by law, no action shall be taken on any item not appearing in the agenda. Speaker Forms are located next to the Speaker Form Return box. When addressing the Board, please state your name for the record prior to providing your comments.

In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the Clerk of the Board 72 hours prior to the meeting at (714) 834-2450

All supporting documentation is available for public review online at http://ocauditor.com/ob/ or in person in the office of the Auditor-Controller located in 12 Civic Center Plaza, Room 200, Santa Ana, California 92701 during regular business hours, 8:00 a.m. - 5:00 p.m., Monday through Friday.

A G E N D A

REGULAR MEETING OF THE
ORANGE COUNTYWIDE OVERSIGHT BOARD

9:30 A.M.

1. Call to Order

2. Pledge of Allegiance

3. Oath of Office Administered by the Hon. Eric H. Woolery, CPA

4. Approval of the Minutes from August 7, 2018

5. Adoption of the 2019 Meeting Schedule

6. Presentation on the Board's Duties and Responsibilities

7. Adopt Resolution Regarding Request by Successor Agency for Appointment of New Oversight Agent and Program Administrator
    a. Seal Beach

8. Adopt Resolution Regarding Request by Successor Agency for Transfer of Property
    a. Garden Grove

9. Adopt Resolutions Regarding Requests by Successor Agencies for Amended Recognized Obligation Payment Schedule (ROPS)
    a. Anaheim
    b. Garden Grove
    c. Mission Viejo
    d. San Juan Capistrano
    e. Santa Ana

BOARD COMMENTS & ADJOURNMENT:

PUBLIC COMMENTS:

At this time members of the public may address the Board on any matter not on the agenda but within the jurisdiction of the Board. The Board may limit the length of time each individual may have to address the Board.

STAFF COMMENTS:

- Brief Update Regarding Oversight Board Counsel

BOARD COMMENTS:

ADJOURNMENT:

NEXT MEETING:

Regular Meeting January 22, 2019, 9:30 AM

M I N U T E S

REGULAR MEETING OF THE
ORANGE COUNTYWIDE OVERSIGHT BOARD

August 7, 2018, 9:30 a.m.

1. CALL TO ORDER

The regular meeting of the Orange Countywide Oversight Board was called to order at 9:35 a.m. on August 7, 2018 at 550 South Main Street, Room 7, Orange, California by Chris Nguyen, Staff to the Orange Countywide Oversight Board.

2. INTRODUCTIONS OF BOARD MEMBERS AND STAFF

Present:	6	Board Member:	Brian Probolsky
		Board Member:	Chris Gaarder
		Board Member:	Dean West
		Board Member:	Steve Jones
		Board Member:	Steve Franks
		Board Member:	Charles Barfield
Absent:	1	Board Member:	VACANT

Also present were Clare Venegas, Consultant to the Oversight Board; Chris Nguyen, Staff to the Oversight Board; and Anthony Kuo, Clerk of the Oversight Board.

3. OATH OF OFFICE

The Oath of Office was administered by the Honorable Shari L. Freidenrich, Treasurer-Tax Collector of the County of Orange for the following Board Members

Board Member:	Brian Probolsky
Board Member:	Chris Gaarder
Board Member:	Dean West
Board Member:	Steve Jones
Board Member:	Steve Franks
Board Member:	Charles Barfield

4. ELECTION OF BOARD OFFICERS

ACTION: On the motion of Board Member Probolsky, seconded by Board Member West, unanimously carried to pass, the Board designated that the Chairman and Vice Chairman would serve a term of one year, and codifying such through Board Resolution 18-001.

ACTION: On the motion of Board Member Franks, seconded by Board Member Jones, unanimously carried to pass, the Board elected Board Member Probolsky to serve as Chairman, and codifying such through Board Resolution 18-001.

*At this time, Chairman Probolsky began presiding over the meeting.

ACTION: On the Motion of Chairman Probolsky, seconded by Board Member Barfield, unanimously carried to pass, the Board elected Board Member Jones to serve as Vice Chairman, and codifying such through Board Resolution 18-001.

5. ADOPT BOARD POLICIES AND PROCEDURES

There was a noted correction on Page 7 of the proposed Board Policies and Procedures. Additionally, requests were made to have items submitted no fewer than eight days from the proposed date of the Oversight Board's meeting and that Agendas would be posted no less than two business days prior to the Oversight Board's meeting.

The following individuals from the public spoke to the scheduling procedures and dates for ROPS resolutions:

Jeff Kirkpatrick, representing the County of Orange Successor Agency
Susan Gorospe, representing the City of Santa Ana Successor Agency
Miranda Cole-Corona, representing the City of La Habra Successor Agency

ACTION: On the Motion of Board Member Barfield, seconded by Board Member Gaarder, unanimously carried to pass, the Board adopted Board Resolution 18-002 and the Policies and Procedures, as amended.

6. ADOPT BOARD CONFLICT OF INTEREST CODE

Staff noted that initial forms (Form 700) would be due 30 days from a Board Member's swearing in and that subsequent annual filings would be filed electronically with the County of Orange.

ACTION: On the Motion of Board Member West, seconded by Board Member Franks, unanimously carried to pass, the Board adopted Board Resolution 18-003 and the Conflict of Interest Code.

7. DISCUSSION OF PROPOSED 2019 MEETING SCHEDULE

Discussion and direction to Staff included holding a meeting in late January, but being mindful of Department of Finance deadlines. Board Members also discussed possible meeting locations and requested that no Regular meetings be scheduled on Wednesdays.

8. ADOPT RESOLUTIONS REGARDING REQUESTS BY SUCCESSOR AGENCIES FOR AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS)

Jennifer King, Assistant Finance Director for the City of Costa Mesa, spoke on behalf of the Costa Mesa Successor Agency in support of the request and noted that the local Costa Mesa Oversight Board met on June 25, 2018 to approve this request.

The Board asked that a copy of letter from the Department of Finance directing the amendment to the ROPS be provided to the Clerk, which Ms. King did so at the meeting.

ACTION: On the Motion of Vice Chairman Jones, seconded by Board Member Franks, unanimously carried to pass, the Board adopted Resolution 18-004.

Public Comments

None

Staff Comments

Chris Nguyen and Clare Venegas noted that a survey was being sent out to the 25 successor agencies and would provide a better snapshot of their activities and assets.

Board Comments

Chairman Probolsky requested an update from Staff on Counsel to the Board.

The Board requested a presentation on the general authority of the Board as well as the Board's finances.

ADJOURNMENT

Chairman Probolsky adjourned the meeting at 10:23 a.m. to a Regular Meeting of the Countywide Oversight Board scheduled for September 18, 2018.

_____
BRIAN PROBOLSKY
CHAIRMAN OF THE COUNTYWIDE OVERSIGHT BOARD

_____ _____
CLERK OF THE BOARD DATE

Orange Countywide Oversight Board

September 18, 2018 Agenda Item No. 5

To: Oversight Board Members

Recommended Action:
Approve resolution adopting 2019 meeting schedule, meeting location, and amending the policies and procedures, accordingly.

The attached resolution would adopt a 2019 meeting schedule consisting of:

- Tuesday, January 22, 2019
- Tuesday, January 29, 2019
- Tuesday, April 30, 2019
- Tuesday, July 30, 2019
- Tuesday, September 24, 2019

The two January meeting dates are due to the large number of annual ROPS that will come before the Countywide Oversight Board as well as the varying schedules of Successor Agency governing boards, who must act before the State Department of Finance's February 1, 2019 submission deadline for annual ROPS for FY 19-20.

The resolution would authorize staff to change the September 24, 2019, regular meeting date to September 17, 2019, provided the Board is notified no later than its April 30, 2019, regular meeting. Staff will confer with Successor Agency representatives to determine appropriate timing for Successor Agency governing boards to act, the Countywide Oversight Board to act, and Successor Agency staff to submit amended ROPS for FY 19-20 to the State Department of Finance by the October 1, 2019 deadline.

The resolution would also designate the Rancho Santiago Community College District (RSCCD) as the location for regular meetings of the Countywide Oversight Board. RSCCD is an advantageous location because its entire parking lot provides free parking, rental of the RSCCD Board room is free, the location sits at the interchange of three freeways (5, 22, and 57) providing easy access to Board members and Successor Agency representatives, and the RSCCD does not house any Successor Agency.

The attached resolution would amend the policy and procedures to designate the Rancho Santiago Community College District, rather than the Orange County Transportation Authority, as the location of the Board's regular meetings.

Resolution No. 18-____

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD ADOPTING THE 2019 MEETING SCHEDULE, DESIGNATING A LOCATION FOR ITS REGULAR MEETINGS, AND AMENDING RELATED POLICIES AND PROCEDURES

WHEREAS, California Health and Safety Code Section 34179(e) requires all action items of the Orange County Countywide Oversight Board be accomplished by resolution;

WHEREAS, in accordance with California Health and Safety Code Section 34179(j), the twenty-five oversight boards in place in Orange County have consolidated into one Orange Countywide Oversight Board, effective July 1, 2018;

WHEREAS, the policies and procedures of the Countywide Oversight Board authorizes the Board to designate a meeting location by resolution;

NOW, THEREFORE, BE IT RESOLVED THAT THE ORANGE COUNTYWIDE OVERSIGHT BOARD DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Orange Countywide Oversight Board shall hold its regular meetings in 2019 on January 22, January 29, April 30, July 30, and September 24; and

Section 2. The Designated Official or the Clerk of the Orange Countywide Oversight Board may move the September 24, 2019, regular meeting to September 17, 2019, provided that the Board is notified no later than the conclusion of its April 30, 2019, regular meeting; and

Section 3. The Orange Countywide Oversight Board shall hold its regular meetings at the Rancho Santiago Community College District; and

Section 4. The policies and procedures of the Orange Countywide Oversight Board are hereby amended to change “Orange County Transportation Authority” to “Rancho Santiago Community College District” in Article II, Section A, regarding the location of regular meetings.

Orange Countywide Oversight Board

Date: 9/18/2018 Agenda Item No. 7A

From: Successor Agency to the Seal Beach Redevelopment Agency

Subject**:** Resolution of the Countywide Oversight Board Approving Amendment No. 2 to Administration and Oversight Agreement to Appoint a Successor Oversight Agent in Connection with Bond and Agency Regulatory Agreements for Seal Beach Shores Mobile Home Park

Recommended Action:
Approve resolution authorizing the Seal Beach Successor Agency's execution and delivery of Amendment No. 2 to Administration and Oversight Agreement to appoint a successor Oversight Agent and Program Administrator and taking related actions.

The Seal Beach Successor Agency requests the Board authorizes the Successor Agency's execution and delivery of Amendment No. 2 to Administration and Oversight Agreement to appoint a successor Oversight Agent and Program Administrator, and taking related actions.

The former City of Seal Beach Redevelopment Agency (the "Former Agency") issued bonds (the "Bonds") in 2000 and provided bond proceeds and other financial assistance to LINC Community Development Corporation ("LINC") for a mobile home park project, now known as Seal Beach Shores (the "Park"). The Bonds were issued pursuant to an Indenture of Trust, dated as of December 1, 2000 (the "Indenture"). ACA Financial Guaranty Corporation ("ACA") issued a bond insurance policy, which provides protection to bondholders with respect to the scheduled principal and interest payments of the Bonds. ACA has approval rights regarding certain matters pursuant to the terms of the Indenture.

In connection with the financing, the Former Agency executed a number of related documents, including certain regulatory agreements, requiring the Park to comply with affordable housing covenants and reporting requirements. The related documents also include an Administration and Oversight Agreement, dated December 1, 2000 (the "Oversight Agent Agreement"), providing for the appointment of an Oversight Agent and Program Administrator (the "Oversight Agent") to assist with monitoring the Park's compliance with the regulatory agreements. The engagement of an Oversight Agent is required under the Indenture. A portion of the Bonds is still outstanding. The Bonds, the Indenture, the regulatory agreements and the Oversight Agent Agreement are enforceable obligations of the Successor Agency.

Seal Beach Shores, Inc. ("SBS") is the current successor to LINC with respect to the ownership of the Park.

Upon the resignation of Rosenow Spevacek Group Inc., the initial Oversight Agent, the Successor Agency entered into an amendment to the Oversight Agent Agreement in 2017. Such amendment provided for the appointment of CivicStone, Inc. ("CivicStone") as the successor Oversight Agent. Pursuant to the Indenture, the appointment of CivicStone was subject to ACA's consent. ACA gave a consent which was limited to a one-year duration.

In light of the expiration of ACA's consent, the Successor Agency staff has had discussions with SBS and ACA. A proposal has been presented to the Successor Agency by Wolf & Company Inc. ("Wolf") to become the successor Oversight Agent. Wolf has had many years of experience serving in similar roles for other mobile home park projects. Wolf proposed an annual fee which is lower than the full amount provided for under the current documents. Wolf proposes a yearly fee of $6,500, subject to annual adjustment based on the Consumer Price Index ("CPI") (in contrast to the amount currently under the documents which is over $8,500, subject to annual CPI adjustment). In light of ACA's familiarity with Wolf on other projects

and at the Successor Agency's request, ACA has given its consent to Wolf's appointment without any limit to the duration.

Because the appointment of a successor Oversight Agent is necessary and required under the Indenture, the Successor Agency's execution and delivery of Amendment No. 2 to Oversight Agent Agreement will reduce potential liability of the Successor Agency. Because any cost incurred for liability of the Successor Agency would be payable from the Redevelopment Property Tax Trust Fund (and potentially reducing residuals to be passed onto the taxing entities after payment of enforceable obligations), the approval of the Successor Agency's execution and delivery of Amendment No. 2 to Oversight Agreement is in the best interests of the taxing entities.

Impact on Taxing Entities

Under the current documents, the periodic fee due to the Oversight Agent in the form of the "Administration Fee," is paid by the Bonds trustee with moneys deposited with the Bonds trustee by Seal Beach Shores. Staff does not anticipate any request of additional moneys from the Redevelopment Property Tax Trust Fund in connection with this appointment.

Attachments

Attachment 1 – Proposed Oversight Board Resolution (with Attachment A – Amendment No. 2 to Administration and Oversight Agreement)
Attachment 2 – Resolution of the Successor Agency

RESOLUTION NO. 18-___

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD WITH OVERSIGHT OF THE SUCCESSOR AGENCY TO THE SEAL BEACH REDEVELOPMENT AGENCY APPROVING THE SUCCESSOR AGENCY'S EXECUTION OF AMENDMENT NO. 2 TO ADMINISTRATION AND OVERSIGHT AGREEMENT FOR THE APPOINTMENT OF A SUCCESSOR OVERSIGHT AGENT AND PROGRAM ADMINISTRATOR AND TAKING RELATED ACTIONS

WHEREAS, the former City of Seal Beach Redevelopment Agency (the "Former Agency") was a redevelopment agency duly formed pursuant to the Community Redevelopment Law, set forth in Part 1 of Division 24 of the California Health and Safety Code ("HSC"); and

WHEREAS, pursuant to AB X1 26 (enacted 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, and the Successor Agency was constituted as the successor entity to the Former Agency; and

WHEREAS, before dissolution, the Former Agency issued its Mobile Home Park Revenue Bonds (Seal Beach Mobile Home Park Project) Series 2000A (the "Bonds") and executed and delivered the related Indenture of Trust, dated as of December 1, 2000 (the "Indenture"), by and between the Former Agency and Union Bank of California, N.A., as trustee; and

WHEREAS, in connection with such financing, the Former Agency executed various related documents, including an Administration and Oversight Agreement, dated as of December 1, 2000 (the "Oversight Agent Agreement"), by and among the Former Agency, LINC Community Development Corporation ("LINC") and Rosenow Spevacek Group Inc. ("RSG"), as Oversight Agent and Program Administrator (the "Oversight Agent") thereunder; and

WHEREAS, Seal Beach Shores, Inc. ("SBS"), is the successor-in-interest to LINC, as the Borrower under the Indenture, the Oversight Agent Agreement and other related documents; and

WHEREAS, a portion of the Bonds remains outstanding; and the Bonds, the Indenture and the Oversight Agent Agreement, as amended, continue to be enforceable obligations of the Successor Agency; and

WHEREAS, the Oversight Agent Agreement has been amended by an Amendment No. 1, dated as of May 1, 2017, by and among the Successor Agency, the City of Seal Beach, SBS, and CivicStone, Inc. ("CivicStone"), which amendment provided for the appointment of CivicStone as the successor Oversight Agent upon the resignation of RSG, the initial Oversight Agent; and

WHEREAS, pursuant to the Indenture, the appointment of any successor Oversight Agent is subject to the written consent of ACA Financial Guaranty Corporation ("ACA"), the provider of a bond insurance policy with respect to the scheduled principal and interest payments of the Bonds; and

WHEREAS, ACA's consent with respect to CivicStone's appointment was limited to a one-year duration; and

WHEREAS, there has been presented an Amendment No. 2 to the Oversight Agent Agreement ("Amendment No. 2 to Oversight Agent Agreement"), which provides for the appointment of Wolf & Co. ("Wolf"), as the new successor Oversight Agent; and

WHEREAS, In light of ACA's familiarity with Wolf on other projects and at the Successor Agency's request, ACA has given its consent to Wolf's appointment without any limit to the duration; and

WHEREAS, the appointment of a new successor Oversight Agent is required under the Indenture and, as such, the Successor Agency's execution and delivery of Amendment No. 2 to Oversight Agent Agreement will reduce liability of the Successor Agency; and

WHEREAS, pursuant to the Indenture, the periodic fee due to the Oversight Agent and the Program Administrator, in the form of the "Administration Fee," is paid by the Trustee with moneys deposited with the Trustee by the Borrower; and

WHEREAS, pursuant to HSC Section 34181(e), the Oversight Board may approve an amendment to an agreement between the Former Agency (as succeeded by the Successor Agency) and a private party if the Oversight Board finds that the amendment would be in the best interests of the taxing entities;

NOW, THEREFORE, BE IT RESOLVED THAT THE ORANGE COUNTYWIDE OVERSIGHT BOARD does hereby resolve as follows:

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

Section 2. In view that the purpose of Amendment No. 2 to Oversight Agent Agreement is to fulfill Indenture requirements by the appointment of a successor Oversight Agent, and thus reduce the liability of the Successor Agency, the Oversight Board hereby finds and determines, for the purposes of HSC Section 34181(e), that the Successor Agency's execution and delivery of Amendment No. 2 to Oversight Agent Agreement is in the best interests of the taxing entities.

Section 3. The Oversight Board hereby approves the Successor Agency's execution and delivery of Amendment No. 2 to Oversight Agent Agreement, substantially in the form attached as Attachment A to this Resolution.

Section 4. The staff and members of the Oversight Board and officers of the Successor Agency are hereby authorized, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution and the Oversight Agent Agreement, as amended.

AMENDMENT NO. 2
(to Administration and Oversight Agreement)

This Amendment No. 2 (this "**Amendment**"), dated as of _____, 2018 (the "**Effective Date**"), is entered into by and among the Successor Agency to the Seal Beach Redevelopment Agency (the "**Successor Agency**"), as successor to the former Seal Beach Redevelopment Agency (the "**Former Agency**"), the City of Seal Beach, a municipal corporation duly existing under the laws of the State of California (the "**City**"), Seal Beach Shores, Inc., a California nonprofit public benefit corporation ("**SBS**" or "**Borrower**"), as the successor-in-interest to LINC Community Development Corporation, a California nonprofit public benefit corporation ("**LINC**") and Wolf & Company Inc., a California Corporation ("**Wolf**"), as successor Oversight Agent and Program Administrator.

This Amendment No. 2 amends and supplements the Administration and Oversight Agreement, dated as of December 1, 2000 (the "**Original Agreement**"), by and among the Former Agency, LINC and Rosenow Spevacek Group Inc., as Oversight Agent and Program Administrator, as amended and supplemented by Amendment No. 1, dated as of May 1, 2017 ("**Amendment No. 1**," and together with the Original Agreement, the "**First Amended Agreement**"), by and among the Successor Agency, SBS and CivicStone, Inc., as successor Oversight Agent and Program Administrator. Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the First Amended Agreement.

RECITALS

A. The Former Agency was a redevelopment agency duly formed pursuant to the Community Redevelopment Law, set forth in Part 1 of Division 24 of the California Health and Safety Code ("HSC").

B. Pursuant to AB X1 26 (enacted 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.

C. Before the Former Agency's dissolution, the Former Agency entered into the Original Agreement in connection with the issuance of the Former Agency's Mobile Home Park Revenue Bonds (Seal Beach Mobile Home Park Project) Series 2000A (the "**Bonds**") and the related execution and delivery of the Indenture of Trust, dated as of December 1, 2000 (the "**Indenture**"), by an between the Former Agency and Union Bank of California, N.A., as trustee.

D. A portion of the Bonds remains outstanding; and the Bonds, the Indenture and the Original Agreement (as amended and supplemented by Amendment No. 1 and this Amendment No. 2) continue to be enforceable obligations of the Successor Agency.

E. The Parties are executing this Amendment No. 2 to provide for Wolf's assumption of the roles of Oversight Agent and Program Administrator.

F. Pursuant to the Indenture (as set forth in the definition of "Oversight Agent" in Section 1.1 thereof), so long as the Bonds remain outstanding, the appointment of any successor Oversight Agent is subject to the consent of ACA, which consent is attached hereto as Exhibit A.

G. The Oversight Board adopted Resolution No. ____, on _____, 2018 (the "Oversight Board Resolution"), approving the Successor Agency's execution and delivery of this Amendment No. 2; and the Oversight Board Resolution became effective upon the State Department of Finance's approval by letter dated _____, 2018, pursuant to the Dissolution Act.

THE PARTIES, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND AGREEMENTS HEREIN CONTAINED DO AGREE AS FOLLOWS:

1. **Administration Agreement to Remain in Effect Except as Amended Hereby**. Except as expressly modified by this Amendment No. 2, the First Amended Agreement shall remain unmodified and in full force and effect in accordance with its terms. The First Amended Agreement, as amended by this Amendment No. 2, shall be hereinafter referred to as the "**Administration Agreement**." Pursuant to Article IV of the Original Agreement, subject to Sections 4.2 and 4.3 thereof, the Administration Agreement, as amended, shall remain in full force and effect for the term of the Regulatory Agreement.

2. **Appointment and Acceptance by Wolf of its Duties as Program Administrator and Oversight Agent**.

(a) The Successor Agency and SBS, as the Borrower, hereby confirm and agree to the appointment of Wolf as the successor Program Administrator and Oversight Agent.

(b) Wolf hereby accepts such appointment, and agrees to perform the duties of the Program Administrator and Oversight Agent as set forth in the Administration Agreement, and accepts the terms of the Administration Agreement (except, it is clarified that: (i) Section 5.4 shall be amended as provided below, and (ii) Section 2.3 of the Original Agreement contains representations by RSG and not Wolf, and Wolf's representation is set forth below in this Amendment No. 2).

(c) Wolf agrees that, notwithstanding the definition of "Administration Fee" set forth in the Indenture, beginning on the effective date of this Amendment No. 2, Wolf will charge an annual Administration Fee of $6,500, subject to any adjustment as set forth below. During any given year, upon written approval of the Executive Director of the Successor Agency and the President of the Borrower's Board of Directors, the annual Administration Fee to be charged by Wolf may be adjusted as of December 15 of such year to reflect 90 percent of any increase in the Consumer Price Index All Urban Consumers for the California CMSA in which the Successor Agency is located from the December 15 of the prior year, published by the United States Department of Labor, Bureau of Labor Statistics ("BLS"). If the base is changed, the CPI used shall be converted according to the conversion factor provided by the BLS.

3. **Representations of Wolf**. Wolf makes the following representations, warranties and acknowledgments:

(a) It is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to carry on its business as now being conducted.

(b) It has the power to execute and deliver this Amendment No. 2 and to carry out the transactions on its part contemplated in the Administration Agreement; and it has duly authorized the execution and delivery of this Amendment No. 2 and its performance under the Administration Agreement.

(c) It is independent from and not under the control of the Borrower, does not have any substantial interest, direct or indirect, in the Borrower, and is not an officer or employee of the Borrower.

(d) Wolf is executing this Amendment No. 2 and assuming the role of Program Administrator and Oversight Agent thereunder as an independent contractor to the Successor Agency. Neither Wolf nor any of its staff are the employees of the Successor Agency. The Successor Agency has no control over the conduct of Wolf, in its capacity as the Program Administrator and Oversight Agent, except in accordance with the provisions of the Administration Agreement, the Indenture, the Loan Agreement, the Regulatory Agreement, the Agency Grant Agreement (as amended and restated in August 2005), and the Agency Regulatory Agreement (as amended in August 2005) pertaining to the duties of the Program Administrator and Oversight Agent.

(e) It has received copies of the First Amended Agreement, the Indenture, the Loan Agreement, the Regulatory Agreement, the Agency Grant Agreement (as amended and restated in August 2005), and the Agency Regulatory Agreement (as amended in August 2005) and it is familiar with the terms and conditions thereof and is qualified to perform its duties as the Program Administrator and Oversight Agent pursuant to the terms thereof.

(f) It has received from the Borrower copies of the Articles of Incorporation, Bylaws and Declaration of Conditions, Covenants and Restrictions, which the Borrower has represented are current operating documents of SBS as of the date of this Amendment No. 2.

4. **Amendment to Section 5.4 of the First Amended Agreement**. The last sentence of Section 5.4 of the First Amended Agreement is hereby replaced in its entirety with the following: The Notice Address of the Program Administrator and Oversight Agent is: 241 S. Figueroa Street, Suite 100, Los Angeles, CA 90012; Attention: Wesley R. Wolf.

5. **Execution in Counterparts**. This Amendment No. 2 may be executed in counterparts, and all such executed counterparts shall constitute the same instrument. It shall be necessary to account for only one set of such counterparts in proving this Amendment No. 2.

IN WITNESS THEREOF, the Parties have caused this Amendment No. 2 to be executed by their duly authorized representatives as of the Effective Date indicated above.

SUCCESSOR AGENCY TO THE SEAL BEACH AGENCY

Attest:

By:_____
Jill R. Ingram, Executive Director

_____
Secretary

CITY OF SEAL BEACH

Attest:

By:_____
Mike Varipapa, Mayor

_____
City Clerk

SEAL BEACH SHORES, INC.,
a California nonprofit public benefit corporation

By:_____
Kenneth Williams,
President of Board of Directors

By:_____
Adela Rose,
Secretary of Board of Directors

WOLF & COMPANY INC.
a California corporation

By:_____
Wesley R. Wolf, President

By:_____
[Title]

EXHIBIT A

Consent of ACA to Appointment of Successor Oversight Agent

ACA Financial Guaranty Corporation
555 Theodore Fremd Avenue, Suite C-205
Rye, NY 10580
212 375 2000 Tel
212 375 2100 Fax

www.aca.com

VIA ELECTRONIC MAIL

September 4, 2018

Successor Agency to the
Redevelopment Agency of The City of Seal Beach
211 Eighth Street
Seal Beach. CA 90740

Re: Seal Beach Mobile Home Park Project, Series 2000A, in the original principal amount of $6,750,000 (the "Bonds")

Ladies and Gentlemen:

Reference is made to that certain Bond Insurance Policy No. 1200-40, with an Effective Date of December 21, 2000, pursuant to which ACA Financial Guaranty Corporation ("ACA") insures that portion which shall be Due for Payment but shall be unpaid by reason of Nonpayment of the principal of and interest on the Bonds that the Redevelopment Agency of the City of Seal Beach (the "Agency") issued pursuant to, among other things, that certain Indenture of Trust, dated as of December 1, 2000 (the "Indenture"), by and between the Agency and Union Bank of California. as trustee (the "Trustee"). Capitalized, undefined terms used herein shall have the meanings ascribed to them in the Indenture.

By email communication dated September 28, 2018 (the "Request"), the Successor Agency to the Redevelopment Agency of the City of Seal Beach (the "Successor Agency"),[1] by and through its counsel: (x) advised ACA that CivicStone, Inc. has ceased to act as the Oversight Agent and the Program Administrator; and (y) pursuant to Section 1.1 of the Indenture, requested ACA to consent to the Successor Agency's appointment of Wolf & Company Inc. as the replacement Oversight Agent and the Program Administrator. Section 1.1 of the Indenture provides in part that:

"Oversight Agent" shall mean [name of prior oversight agent] and any successor thereto appointed by the Issuer subject to the consent of ACA (such consent not to be unreasonably withheld), which entity shall also act as the initial Oversight Agent under the Administration Agreement.

[1] Pursuant to AB XI 26 (enacted 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 Agency was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Agency.

A copy of the Request is attached hereto as Exhibit A and incorporated herein by reference.

Subject to the terms and conditions set forth herein. ACA hereby consents to the Successor Agency's appointment of Wolf & Company Inc. as the replacement Oversight Agent and the Program Administrator.

This letter and the consent set forth herein (the "Consent") shall be effective as of the date hereof (the "Effective Date") provided that on or before September 12, 2018, the Successor Agency shall deliver to ACA via electronic mail a copy of this Consent countersigned by an authorized signatory of the Successor Agency. If the Successor Agency fails to return this Consent with in the time period specified above, the Consent shall immediately and automatically, without any further action required by ACA or any other party, have no force or effect.

In deciding to grant the Consent, ACA has relied on, among other things, the statements, representations, information or other material provided by or on behalf of the Successor Agency or any other party in support of the Request (together, the "Representations"). ACA is not making any representation regarding the truth, accuracy, completeness or validity of the Representations. Furthermore. ACA reserves any and all of its rights. Remedies, defenses and counter-claims pursuant to the Indenture and any other document executed in connection with the issuance or administration of the Bonds (together with the Indenture, the "Bond Documents") or as otherwise available at law or equity (together, the "Rights and Remedies") including, without limitation, those Rights and Remedies that are available in the event ACA is made aware of additional facts or it is determined that the Representations are inaccurate. incomplete or misleading.

Except as expressly set forth herein. the Bond Documents. and all of ACA's rights and remedies thereunder, remain unmodified and in full force and effect, are hereby ratified and confirmed and the Successor Agency shall continue to comply with all of their obligations, covenants, representations and warranties thereunder strictly in accordance with the terms thereof. Except as expressly set forth herein, the Successor Agency acknowledges and agrees that, notwithstanding any communications, course of conduct, or reliance, ACA is not, and shall not be deemed to be, obligated or committed in any manner or to any extent to any agreement to extend, modify, amend or waive any of the terms of this Consent or any or the Bond Documents, or to waive or forbear from enforcing any rights, powers, privileges. remedies or defenses under the Bond Documents or as otherwise available at law or equity.

The Successor Agency further represents and warrants that the Bond Documents are in full force and effect and have not been amended, modified, terminated, rescinded or revoked in whole or in part since the date or their initial adoption, other than as previously consented to by ACA. This Consent constitutes a valid and binding obligation of the Successor Agency and is

enforceable against the Successor Agency in accordance with its terms, provisions, covenants and conditions.

This Consent shall be applicable only to the matter stated herein, and this Consent shall be so limited and shall not be deemed to extend to any other matter nor impair or limit any right consequent thereon. ACA provides this Consent for its own benefit and in its own interest, and the Successor Agency is solely responsible for obtaining such other consents, waivers, approvals or taking of such of other actions, if any, as may be required in connection with the matters discussed herein. This Consent speaks only as of the date hereof and ACA has no obligation to update this Consent should circumstances change thereafter. This Consent is intended for use in connection with the Request and shall not to be relied upon for any other purpose.

The Successor Agency unconditionally and irrevocably releases, discharges and acquits ACA and its officers, directors, successors, assigns, parent, subsidiaries, employees, affiliates, representatives, servants and counsel (each, an "ACA Party") from and against any and all claims, demands, causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, agreements, promises, variances, damages, expenses and liabilities, known or unknown, at law or in equity, and irrevocably waives and relinquishes any and all known rights of setoff, counterclaims and defenses, contingent or absolute, liquidated or unliquidated or otherwise, arising from or related to any act or omission of any ACA Party that has occurred on or before the date hereof, irrespective of whether such claims arise out of contract, tort, violation of laws or regulations or otherwise, which the Successor Agency ever had or now has against any ACA Party for, upon or by reason of any matter or cause whatsoever from the beginning of the world to and including through the date hereof arising out of, in connection with, or related to the Bond Documents, any other document delivered in connection with the Bonds and this Letter, or any notices, conversations, negotiations, disputes or litigation regarding any of the foregoing. Notwithstanding the foregoing, nothing contained herein shall be construed to release any person with respect to any unlawful conduct or willful misconduct.

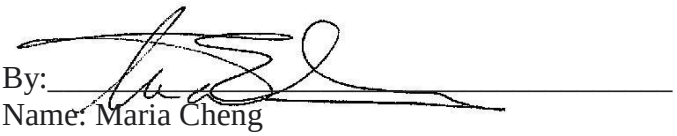
The Successor Agency shall indemnify ACA and its officers, directors, successors, assigns, parent, subsidiaries, employees, affiliates, representatives, servants and counsel (each an "Indemnitee"), against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and expenses reasonably related thereto, including reasonable fees, charges and disbursements of one firm of outside counsel for Indemnitees, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result (i) the preparation, execution, delivery and administration of this Letter or any other agreement or instrument contemplated hereby or (ii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, and regardless of whether any Indemnitee is a party thereto (and regardless of whether such matter is initiated by the Successor Agency or any other Person) provided, however, that each Indemnitee remains liable for its own gross negligence or willful misconduct.

This consent letter shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York without regard to any conflicts-of-laws rules.

Please indicate your acceptance and agreement with the terms and conditions hereof by executing this consent letter as provided below and returning the executed signature pages to my attention at the address set forth above.

Very truly yours,

ACA FINANCIAL GUARANTY CORPORATION



By:_____
Name: Maria Cheng
Title: Managing Director

ACCEPTED AND AGREED TO BY:

THE SUCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE CITY OF SEAL BEACH

By: _____
Name:
Title:

Exhibit A
The Request

From: Teresa Ho-Urano <THo-Urano@rwglaw.com>
Sent: Tuesday, August 28, 2018 11:13 AM
To: Denniston, Karol K. <karol.denniston@squirepb.com>
Cc: Robin D. Harris <RHarris@rwglaw.com>
Subject: Seal Beach SA - Amend No. 2 to Administration Agreement to substitute to Oversight Agent.DOCX

Karol –

It was nice talking with you this morning.

Per our discussion this morning, attached please find: (i) the draft Amendment No. 2 to the Administration and Oversight Agreement for the appointment of Wolf & Co., as the new Oversight Agent and Program Administrator, and (ii) the proposal from Wolf, which includes references.

Please forward to the appropriate people at ACA.

Per your request, I have also attached ACA's consent to Amendment No. 1. As discussed, as we move forward, the Successor Agency would appreciate a consent which is not limited in duration this time around.

Look forward to hearing back from you and ACA soon.

Teresa Ho-Urano

RICHARDS WATSON GERSHON
355 South Grand Avenue, Suite 4000
Los Angeles, CA 90071
D: 213.253.0277
F: 213.626.0078
E: tho-urano@rwglaw.com
W: rwglaw.com

Orange Countywide Oversight Board

Placeholder for Pending Resolution

Date: 9/18/2018

From: Successor Agency to the Seal Beach Redevelopment Agency

Subject**:** Resolution of the Seal Beach City Council Approving Amendment No. 2 to Administration and Oversight Agreement Relating to Seal Beach Shores Mobile Home Park.

The resolution of the Seal Beach City Council approving Amendment No. 2 to Administration and Oversight Agreement Relating to Seal Beach Shores Mobile Home Park will be voted upon at their 9/10/2018 meeting. As such, the resolution is not yet available for submission but will be provided before the Countywide Oversight Board votes upon its resolution regarding the Amendment No. 2 to Administration and Oversight Agreement Relating to Seal Beach Shores Mobile Home Park.

Orange Countywide Oversight Board

Date: 9/18/2018 Agenda Item No. 8A

From: Successor Agency to the Garden Grove Redevelopment Agency

Subject**:** Resolution of the Countywide Oversight Board Approving the Transfer of Certain Real Property to New Age Garden Grove, LLC in accordance with the Long Range Property Management Plan

Recommended Action:

Approve resolution approving the transfer of certain real property to New Age Brookhurst, LLC in accordance with the Long Range Property Management Plan for the Garden Grove Successor Agency.

The Garden Grove Successor Agency requests that the Oversight Board adopt a Resolution approving the transfer of certain real property to New Age Brookhurst, LLC in accordance with the Long Range Property Management Plan for the Garden Grove Successor Agency.

On November 24, 2010, the Garden Grove Agency for Community Development ("Former Agency") and New Age Brookhurst, LLC, ("Developer") entered into a Disposition and Development Agreement ("DDA") establishing the terms and conditions for the development of a mixed-use retail, commercial, and residential development on Successor Agency owned property, commonly referred as the "Brookhurst Triangle," (the "Site"). The Site is located at 10151 Garden Grove Boulevard, 12863 and 12865 Brookhurst Street, Garden Grove.

The approved Revised Long Range Property Management Plan ("LRPMP") designates the Site (composed of "Phase I Property" and "Phase II Property") as property to be conveyed to New Age in accordance with the DDA. The Successor Agency has conveyed all Phase I Property to New Age in accordance with the DDA and the LRPMP. Developer has completed Phase I Property development with construction of 180 new apartment homes.

The DDA provides that the Phase II Purchase Price shall be $24,400,000; provided that Section 510 of the DDA allowed New Age to elect to increase the number of Affordable Rental Units from 60 to 120, in which case the DDA requires the Successor Agency to pay to New Age $6,400,000 at the closing of the Phase II Property from its Housing Set Aside Fund. New Age has expressed its commitment to build 120 Affordable Rental Units in accordance with Section 510 of the DDA and is requesting the Successor Agency to pay to New Age $6,400,000 at the closing of the Phase II Property.

Due to the implementation of Assembly Bill x1 26 ("AB x1 26") added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code and which laws were modified, in part, and determined constitutional by the California Supreme Court in the petition *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("*Matosantos* Decision"), all cash balances in the Housing Set Aside Fund were distributed to the affected taxing entities upon dissolution of the former Agency.

The Successor Agency is now proposing that the Phase II Purchase Price be $18,000,000, composed of the Phase II Purchase Price of $24,400,000 less the $6,400,000 payment due to the Developer required by Section 510.

This item has been approved via a Resolution at the Garden Grove Successor Agency regularly scheduled meeting held on Tuesday, August 28, 2018.

The Garden Grove Successor Agency seeks adoption from the Oversight Board of the Resolution approving the transfer of certain real property to New Age Brookhurst, LLC in accordance with the Long Range Property Management Plan, authorization for the Garden Grove Successor Agency Executive Director to execute all closing documents, and authorization for staff to transmit the Approved Resolution and documents to the State Department of Finance.

Impact on Taxing Entities

There is no impact. The Successor Agency credit against the Phase II Purchase Price of $6,400,000 has the same economic effect on the taxing entities as if the Successor Agency had retained such Housing Set Aside Funds and paid the same to New Age at the closing of the Phase II Property.

Attachments

- Oversight Board Resolution
- Garden Grove Successor Agency Approved Resolution
- Disposition and Development Agreement between the Garden Grove Agency for Community Development and New Age Brookhurst, LLC.

RESOLUTION NO. 18-___

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD WITH OVERSIGHT OF THE SUCCESSOR AGENCY TO THE GARDEN GROVE REDVELOPMENT AGENCY APPROVING THE TRANSFER OF CERTAIN REAL PROPERTY TO NEW AGE GARDEN GROVE LLC IN ACCORDANCE WITH THE LONG RANGE PROPERTY MANAGEMENT PLAN AND THE DISSOLUTION LAWS

WHEREAS, the Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency") is a public body corporate and politic, organized and operating under Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, and the successor to the former Garden Grove Agency for Community Development ("former Agency") that was previously a community redevelopment agency organized and existing pursuant to the Community Redevelopment Law, Health and Safety Code Section 33000, *et seq*. ("CRL"); and

WHEREAS, Assembly Bill x1 26 ("AB x1 26") added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code and which laws were modified, in part, and determined constitutional by the California Supreme Court in the petition *California Redevelopment Association, et al. v. Ana Matosantos, et al*., Case No. S194861 ("*Matosantos* Decision"), which laws and court opinion caused the dissolution of all redevelopment agencies and winding down of the affairs of former redevelopment agencies; thereafter, such laws were amended further by Assembly Bill 1484 ("AB 1484") (together AB x1 26, the *Matosantos* Decision, and AB 1484 are referred to as the "Dissolution Laws"); and

WHEREAS, as of February 1, 2012 the former Agency was dissolved pursuant to the Dissolution Laws and as a separate public entity, corporate and politic the Successor Agency administers the enforceable obligations of the former Agency and otherwise unwinds the former Agency's affairs, all subject to the review and approval by the oversight board ("Oversight Board"); and

WHEREAS, Health and Safety Code Section 34191.5(b) requires the Successor Agency to prepare a "long-range property management plan" (also referred to herein as the "LRPMP") addressing the future disposition and use of all real property of the former Agency no later than six months following the issuance to the Successor Agency of a finding of completion by the State Department of Finance ("DOF") pursuant to Health and Safety Code Section 34179.7; and

WHEREAS, the Successor Agency prepared an LRPMP and the LRPMP prepared by the Successor Agency was approved by the Successor Agency, the Oversight Board, and the DOF; and

WHEREAS, DOF issued a finding of completion to the Successor Agency on May 15, 2013; and

WHEREAS, the approved LRPMP designates the subject real property (identified in lines 8 through 20 on the matrix attached to the LRPMP) (the "Property," composed of "Phase I Property" and "Phase II Property.") as property to be conveyed to New Age Garden Grove, LLC ("New Age") in accordance with the Disposition and Development Agreement (the "DDA") by and between the former Agency and New Age, and in accordance with LRPMP; and

WHEREAS, the Phase I Property was conveyed to New Age in accordance with the DDA and the LRPMP; and

WHEREAS, the DDA provides that the Phase II Purchase Price (defined in the DDA) shall be $24,400,000; provided that Section 510 of the DDA allowed New Age to elect (and New Age has elected) to increase the number of Affordable Rental Units from 60 to 120 in which case the DDA requires the Successor Agency to pay to New Age $6,400,000 at the closing of the Phase II Property from its Housing Set Aside Fund (defined in the DDA); and

WHEREAS, all cash balances in the Housing Set Aside Fund were distributed to the affected taxing entities upon dissolution of the former Agency; and

WHEREAS, the Successor Agency will transfer the Phase II Property to New Age, and

WHEREAS, the conveyance of the Phase II Property to New Age complies with the CRL, the Dissolution Laws and the LRPMP;

NOW, THEREFORE, BE IT RESOLVED THAT THE ORANGE COUNTYWIDE OVERSIGHT BOARD does hereby resolve as follows:

Section 1. The foregoing recitals are true and correct and constitute a substantive part of this Resolution.

Section 2. The Oversight Board hereby confirms the finding of the Successor Agency that a credit against the Phase II Purchase Price of $6,400,000 has the same economic effect on the taxing entities as if the Successor Agency had retained such Housing Set Aside Funds and paid same to New Age at the closing of the Phase II Property.

Section 3. The Oversight Board hereby approves and authorizes the conveyance of the Phase II Property in accordance with the approved LRPMP and the DDA at a purchase price of $18,000,000, being the Phase II Purchase Price of $24,400,000 less the $6,400,000 payment to the Developer required by Section 510 of the DDA.

Section 4. The Chair of the Oversight Board shall sign the passage and adoption of this Resolution and thereupon the same shall take effect and be in force.

Section 5. The Successor Agency Director is hereby directed to transmit this Resolution to DOF.

GARDEN GROVE SUCCESSOR AGENCY

RESOLUTION NO. 53-18

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT APPROVING THE TRANSFER OF CERTAIN REAL PROPERTY TO NEW AGE BROOKHURST, LLC IN ACCORDANCE WITH THE LONG RANGE PROPERTY MANAGEMENT PLAN AND DISSOLUTION LAW

WHEREAS, the Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency") is a public body corporate and politic, organized and operating under Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, and the successor the former Garden Grove Agency for Community Development ("former Agency") that was previously a community redevelopment agency organized and existing pursuant to the Community Redevelopment Law, Health and Safety Code Section 33000, *et seq*. ("CRL");

WHEREAS, Assembly Bill x1 26 ("AB x1 26") added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code and which laws were modified, in part, and determined constitutional by the California Supreme Court in the petition *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("*Matosantos* Decision"), which laws and court opinion caused the dissolution of all redevelopment agencies and winding down of the affairs of former redevelopment agencies; thereafter, such laws were amended further by Assembly Bill 1484 ("AB 1484") (together AB x1 26, the *Matosantos* Decision, and AB 1484 are referred to as the "Dissolution Laws");

WHEREAS, as of February 1, 2012, the former Agency was dissolved pursuant to the Dissolution Laws and as a separate public entity, corporate and politic the Successor Agency administers the enforceable obligations of the former Agency and otherwise unwinds the former Agency's affairs, all subject to the review and approval by the seven-member oversight board ("Successor Agency");

WHEREAS, Health and Safety Code Section 34191.5(b) requires the Successor Agency to prepare a "long-range property management plan" (also referred to herein as the "LRPMP") addressing the future disposition and use of all real property of the former Agency no later than six months following the issuance to the Successor Agency of a finding of completion by the State Department of Finance ("DOF") pursuant to Health and Safety Code Section 34179.7;

WHEREAS, DOF issued a finding of completion to the Successor Agency on May 15, 2013;

WHEREAS, the Successor Agency prepared an LRPMP and the LRPMP prepared by the Successor Agency was approved by the Successor Agency and the DOF;

WHEREAS, the approved LRPMP designates the subject real property (identified in lines 8 through 20 on the matrix attached to the LRPMP) (the "Property," composed of "Phase I Property" and "Phase II Property") as property to be conveyed

to New Age Brookhurst, LLC in accordance with the Disposition and Development Agreement by and between the former Agency and New Age Brookhurst, LLC ("New Age"), as successor in interest to Palm Court Lodging, LLC, dated June 26, 2001, (the "DDA") and in accordance with LRPMP;

WHEREAS, the Phase I Property was conveyed to New Age in accordance with the DDA and the LRPMP;

WHEREAS, the DDA provides that the Phase II Purchase Price (defined in the DDA) shall be $24,400,000; provided that Section 510 of the DDA allowed New Age to elect (and New Age has elected) to increase the number of Affordable Rental Units from 60 to 120, in which case the DDA requires the Successor Agency to pay to New Age $6,400,000 at the closing of the Phase II Property from its Housing Set Aside Fund (defined in the DDA);

WHEREAS, all cash balances in the Housing Set Aside Fund were distributed to the affected taxing entities upon dissolution of the former Agency;

WHEREAS, the Successor Agency will transfer the Phase II Property to New Age; and

WHEREAS, the conveyance of the Phase II Property to New Age complies with the Community Redevelopment Law, Dissolution Law and the LRPMP.

NOW, THEREFORE, BE IT RESOLVED BY THE SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT:

Section 1. The foregoing recitals are true and correct and constitute a substantive part of this Resolution.

Section 2. The Successor Agency hereby finds that a credit against the Phase II Purchase Price of $6,400,000 has the same economic effect on the taxing entities as if the Successor Agency had retained such Housing Set Aside Funds and paid the same to New Age Brookhurst, LLC at the closing of the Phase II Property.

Section 3. The Successor Agency hereby approves and authorizes the conveyance of the Phase II Property in accordance with the approved LRPMP and the DDA at a purchase price of $18,000,000, being the Phase II Purchase Price of $24,400,000 less the $6,400,000 payment to the Developer required by Section 510 of the DDA.

Section 4. The Director of the Successor Agency shall sign the passage and adoption of this Resolution and thereupon the same shall take effect and be in force.

Section 5. The Successor Agency Director is hereby directed to transmit this Resolution to State Department of Finance.

Adopted this 28th day of August 2018.

STEVEN R. JONES
CHAIR

ATTEST:

LIZABETH VASQUEZ
DEPUTY SECRETARY

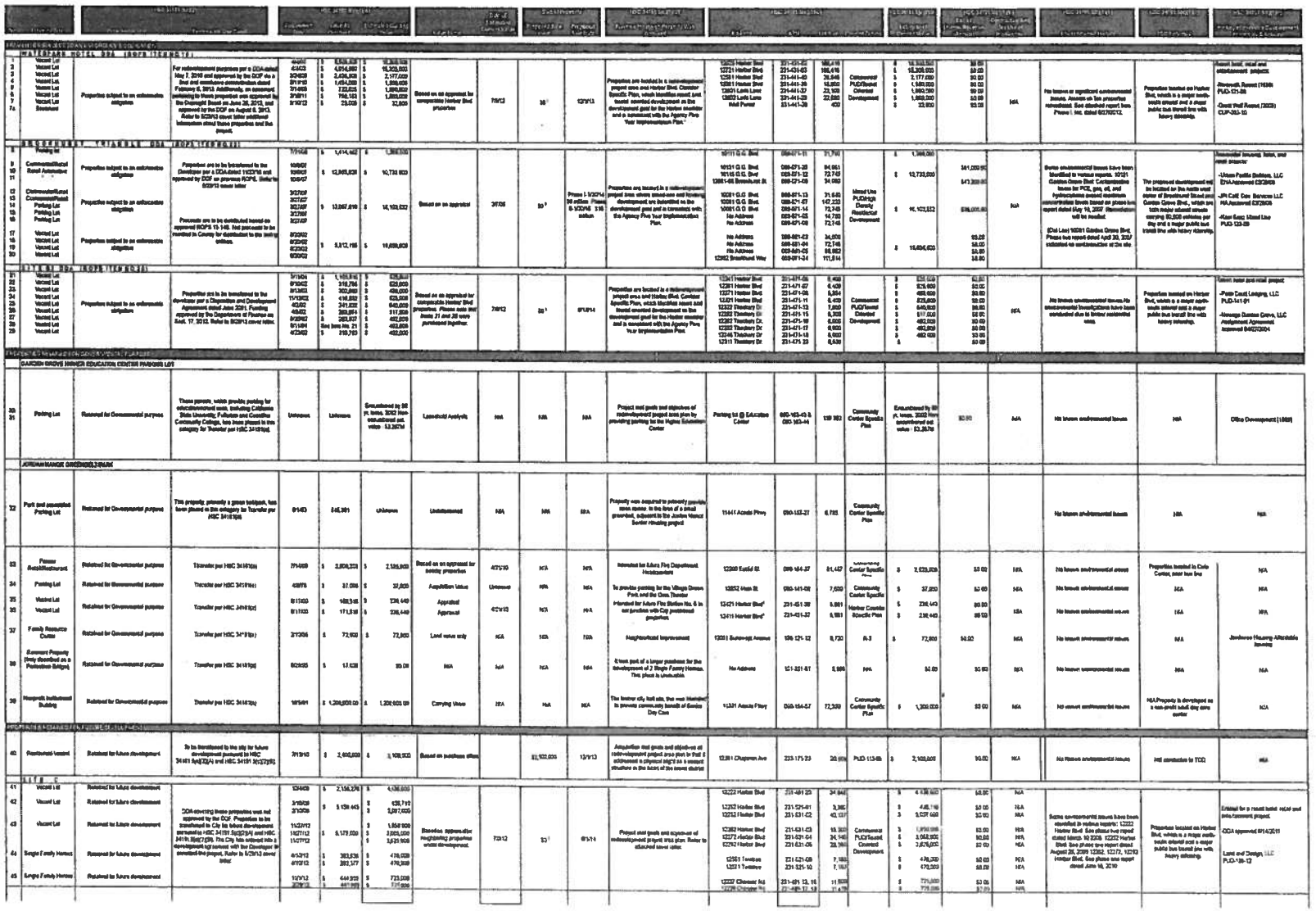
STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, LIZABETH VASQUEZ, Deputy Secretary of The City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development, do hereby certify that the foregoing Resolution was duly adopted by the Successor Agency, at a meeting held on the 28th day of August 2018, by the following vote:

AYES:	MEMBERS:	(6)	BEARD, BUI, NGUYEN T., KLOPFENSTEIN, NGUYEN K., JONES
NOES:	MEMBERS:	(0)	NONE
ABSENT:	MEMBERS:	(1)	O'NEILL

LIZABETH VASQUEZ
DEPUTY SECRETARY

Garden Grove Long Range Property Management Plan



LRPMP Revision B

Long Range Property Mgmt Plan Adopted 2-12-11 2012 as

DISPOSITION AND DEVELOPMENT AGREEMENT

This **DISPOSITION AND DEVELOPMENT AGREEMENT** (the "Agreement") is entered into as of November 24, 2010, by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), and **NEW AGE BROOKHURST, LLC.** a California limited liability company (the "Developer").

RECITALS

The following recitals are a substantive part of this Agreement:

A. In furtherance of the objectives of the California Community Redevelopment Law, the Agency desires to cooperate with the Developer in the redevelopment of approximately 13.91 acres of real property in the City of Garden Grove known as the "Brookhurst Triangle," and owned by the Agency which is bounded by Brookhurst Street on the east, Garden Grove Boulevard on the south, and Brookhurst Way on the northern and western edge (the "Site"). The Site is described in the Legal Description and shown on the Site Map.

B. The Agency and the Developer desire by this Agreement for the Agency to convey the Site to the Developer in two separate Phases, and for the Developer to purchase the Site and to develop a two Phase mixed use residential and retail project thereon, together with other onsite and offsite improvements (collectively, the "Improvements").

C. Phase I of the Improvements will consist of approximately 148 attached For Sale Units in three (3) four-story buildings. Phase II of the Improvements will be developed in multiple Subphases and will consist of approximately 252 attached For Sale Units in five (5) four-story buildings, approximately 200 Rental Units, of which 60 will be Affordable Rental Units or, at the election of the Developer, the Affordable Rental Units may be increased to 120, approximately 80,000 square feet of retail space. Phase 2 may include a Hotel Component of approximately One Hundred (100) rooms.

D. The Agency's sale of the Site to the Developer and the Developer's acquisition and development of the Improvements and sale or operation of the Project, as applicable, as provided for in this Agreement, is in the vital and best interest of the City and the health, safety and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements under which the redevelopment of the Garden Grove Community Project has been undertaken.

NOW, THEREFORE, the Agency and the Developer hereby agree as follows:

100. DEFINITIONS

"Actual Knowledge" is defined in Section 206.1(d) hereof.

"Affiliate" means an entity owned and controlled by Kam Sang Company, Inc.

"Affordability Period" is defined in Section 502.

SYCR Draft: November 19, 2010
Emailed to MF / GB / PM

DISPOSITION AND DEVELOPMENT AGREEMENT

By and Between the

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

and

NEW AGE BROOKHURST, LLC

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ATTACHMENTS

"Affordable Rent" means the maximum monthly rent chargeable for an Affordable Rental Unit as described in Section 505.

"Affordable Rental Unit" means the Rental Units that will be offered for rent to Persons and Families of Moderate Income at an Affordable Rent.

"Affordable Rental Unit(s)" means the Housing Unit(s) that are to be constructed and developed within the Rental Units all of which shall be rented or leased to Persons and Families of Low or Moderate Income at Affordable Rents for Fifty-Five (55) years, as provided within this Agreement.

"Affordable Unit(s)" means Affordable Rental Unit(s) and/or For-Sale Housing Units.

"Agency" means the Garden Grove Agency for Community Development, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under Chapter 2 of the Community Redevelopment Law and any assignee of or successor to its rights, powers and responsibilities.

"Agency's Phase I Conditions Precedent" is defined in Section 205.1.

"Agency's Phase II Conditions Precedent" is defined in Section 205.3.

"Agreement" means this Disposition and Development Agreement between the Agency and the Developer, including the Attachments hereto.

"Association CC&Rs" is defined in Section 403.

"Breach" is defined in Section 701.

"City" means the City of Garden Grove, a California municipal corporation. The City is not a party to this Agreement and has no obligations hereunder.

"Closing" means the close of Escrow for each Conveyance of a Phase of the Site from the Agency to the Developer, as set forth in Section 202 hereof.

"Closing Date" means the date of each Closing, as set forth in Section 202.4 hereof.

"Community Redevelopment Law" means California Health and Safety Code Section 33000, *et seq.* as the same now exists or may hereinafter be amended.

"Conceptional Site Plan" is attached to the PUD.

"Condition(s) Precedent" means the Agency's Conditions Precedent to Phase I Closing, the Developer's Conditions Precedent to Phase I, the Agency's Conditions Precedent to Phase II and/or the Developer's Conditions Precedent to Phase II, as applicable.

"Conveyance" or ***"Conveyed"*** means each conveyance of a Phase by the Agency to the Developer on the applicable Closing Date.

"County" means the County of Orange.

"Date of Agreement" means the date this Agreement is approved by the Agency at a public meeting, which date is set forth in the first paragraph hereof.

"Declaration of Uses" means the Declaration of Uses, substantially in the form of Attachment No. 7, which is incorporated herein, which shall be recorded as an encumbrance to the parcels containing the Retail Improvements.

"Default" is defined in Section 701.

"Deposit" is defined in Section 201.1.

"Developer" means New Age Brookhurst, LLC., and its permitted successors and assigns.

"Developer's Phase I Conditions Precedent" is defined in Section 205.2.

"Developer's Phase II Conditions Precedent" is defined in Section 205.4.

"Environmental Consultant" means the environmental consultant which may be employed by the Developer pursuant to Section 208.3 hereof.

"Environmental Report" means the report setting forth the results of the environmental investigation of the Site which may be conducted by the Environmental Consultant, as set forth in Section 208.3 hereof.

"Eligible Person" means any individual, partnership, corporation or association which qualifies as a "displaced person" pursuant to the definition provided in Government Code Section 7260(c) of the California Relocation Assistance Act of 1970, as amended, and any other applicable state laws or regulations.

"Escrow" is defined in Section 202 hereof.

"Escrow Agent" is defined in Section 202 hereof.

"Exceptions" is defined in Section 203 hereof.

"FIRPTA" means the Foreign Investment in Real Property Transfer Act.

"For Sale Housing Unit(s)" mean the 148 condominium units in Phase I and the 252 condominium units in Phase II which will be offered for sale, including all common areas associated therewith.

"Force Majeure" is defined in Section 702.

"Governmental Requirements" means all applicable laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State, the County, the City, or any other political subdivision in which the Property is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the City, the Developer or the Property, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation the

Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Sections 51, *et seq.* Developer and its contractors and subcontractors shall comply with all applicable public works requirements, including without limitation, if applicable, the payment of prevailing wages in compliance with Labor Code Section 1770, *et seq.*, keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and complying with all regulations and statutory requirements pertaining thereto.

"Grant Deed" means the grant deed for the Conveyance of each Phase of the Site from the Agency to the Developer, substantially in the form of Attachment No. 3 hereto which is incorporated herein.

"Hazardous Materials" means any substance, material, or waste which is or becomes, regulated by any local governmental authority, the State, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) methyl tertiary butyl ether, (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Code of Regulations, Division 4, Chapter 20, (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, *et seq.* (42 U.S.C. §6903) or (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601, *et seq.*

"Hotel Component" means a limited-select service hotel, such as Aloft, Element, Hyatt Place, Hyatt Summerfield Suite, or Marriott Springhill Suites of approximately 100 guest rooms.

"Housing Set Aside Fund" means the fund established by the Agency pursuant to Health & Safety Code Section 33334.2.

"Housing Units" means the For Sale Units and Rental Units, which are constructed on the Site pursuant to the Scope of Development.

"Improvements" or ***"Project"*** means the improvements to be constructed by the Developer upon the Site and the offsite perimeter improvements relating thereto, all as more particularly described in Sections 301-303 hereof and in the Scope of Development.

"Kam Sang Company, Inc." is a California corporation of which Ronnie Lam is the majority shareholder. Kam Sang Company, Inc. is the managing member and principal owner of the Developer.

"Land Use Approvals" is defined in Section 303.

"Legal Description" means the description of the Site and the Phases within the Site which is attached hereto as Attachment No. 1 and incorporated herein.

"Management Plan" is defined in Section 407.

"Marketing Program" is defined in Section 507.

"Master Association" is defined in Section 403.

"Ministerial Approvals" is defined in Section 303.

"Notice" shall mean a notice in the form prescribed by Section 701 hereof.

"Notice of Affordability Restrictions" is attached hereto as Attachment No. 9 and incorporated herein by reference.

"Option Agreement" is attached hereto as Attachment No. 10 and incorporated herein by reference.

"Party" means either the Agency or Developer, as applicable, and *"Parties"* means the Agency and Developer, including their respective permitted successors and assigns.

"Persons and Families of Low or Moderate Income" is defined in Health & Safety Code Section 50093.

"Phase(s)" means Phase I and/or Phase II, Phase II, Subphase A and/or other Subphases within Phase II, as applicable.

"Phase I" means the approximately 3.7 acre portion of the Site which is so identified in the Legal Description and the Site Map.

"Phase I Closing" means the Closing for the Agency's Conveyance of Phase I to the Developer.

"Phase I Improvements" means the approximately 148 attached For Sale Units in three (3) four-story buildings.

"Phase I Outside Date" means the last date the Phase I Closing shall occur, as set forth in Section 202.4 hereof.

"Phase I Purchase Price" means the purchase price payable by Developer to Agency in consideration for the Agency's Conveyance of Phase I, to the Developer, in the amount set forth in Section 201 hereof.

"Phase II" means the approximately 10.21 acre portion of the Site which is so identified in the Legal Description and the Site Map.

"Phase II Closing" means the Closing for the Agency's Conveyance of Phase II to the Developer.

"Phase II Improvements" means the approximately 252 attached For Sale Units in five (5) four-story buildings, approximately 200 Rental Units of which 60 will be Affordable Rental Units, or, at the election of the Developer, the Affordable Rental Units may be increased to 120, approximately 80,000 square feet of Retail Improvements, and the Hotel Component.

"Phase II Outside Date" means the last date the Phase II Closing shall occur, as set forth in Section 202.4 hereof.

"Phase II Purchase Price" means the purchase price payable by Developer to Agency in consideration for the Agency's Conveyance of Phase II to the Developer, in the amount set forth in Section 201 hereof.

"Phase II, Subphase A" means the first Subphase of Phase II.

"Physical and Environmental Condition" means with respect to the Site, the square footage, supporting infrastructure; if any, development rights and exactions, expenses associated with the Site and development thereof in the manner proposed herein, taxes, assessments, bonds, permissible uses, title exceptions, water or water rights, topography, utilities, zoning of the Site, soil, subsoil, geology, drainage, environmental or building laws, rules or regulations, toxic waste or Hazardous Materials, required scope of remediation, or any other matters affecting or relating to the Site and its development in the manner proposed herein.

"Property Manager" is defined in Section 403.

"PUD" means that certain planned unit development approved as PUD 123-09 on November 10, 2009.

"Purchase Price" is defined in Section 201 hereof.

"Redevelopment Plan" means the Redevelopment Plan for the Redevelopment Project, adopted by ordinance of the City Council of the City of Garden Grove, as amended from time to time.

"Redevelopment Project" means the Garden Grove Community Project, adopted by the City pursuant to the Redevelopment Plan.

"Regulatory Agreement" is attached hereto as Attachment No. 8 and incorporated herein by reference.

"Release of Construction Covenants" means the document which evidences the Developer's satisfactory completion of the Improvements, as set forth in Section 310 hereof. The Release of Construction Covenants shall be in the form of Attachment No. 6 hereto which is incorporated herein.

"Rental Unit(s)" means the 200 apartment units that will be offered for rent in Phase II of which 60 will be Affordable Rental Units in Phase II.

"Residential Improvement" or ***"Residential Component"*** means the Housing Units.

"Retail Improvements" or ***"Retail Component"*** means the Improvements to be constructed on the Site in accordance with the Scope of Development which will contain retail uses, and at least one (1) restaurant whose identity is approved by the Agency acting in its sole and absolute discretion.

"Schedule of Performance" means the Schedule of Performance attached hereto as Attachment No. 5 and incorporated herein, setting out the dates and/or time periods by which certain conditions and obligations set forth in this Agreement must be accomplished.

"Scope of Development" means the Scope of Development which describes the scope, amount and quality of development of the Improvements to be constructed by the Developer pursuant to the terms and conditions of this Agreement, as provided in Section 301 hereof. The Scope of Development is attached hereto as Attachment No. 4 and incorporated herein.

"Site" means that certain approximately 13.91 acres of real property in the City of Garden Grove known as the "Brookhurst Triangle," which is bounded by Brookhurst Street on the east, Garden Grove Boulevard on the south, and Brookhurst Way on the northern and western edge. The Site is legally described in the Legal Description and depicted on the Site Map.

"Site Map" means the map of the Site which is attached hereto as Attachment No. 2 and incorporated herein.

"State" means the State of California.

"Subphase(s)" means the separate multiple subphase(s)s within Phase II.

"Title Company" is defined in Section 203 hereof.

"Title Policy" is defined in Section 204 hereof.

"Title Report" means the preliminary title report, as described in Section 203 hereof.

"Transfer" is defined in Section 703.1 hereof.

200. ACQUISITION AND CONVEYANCE OF THE SITE

201. Agreement to Purchase and Sell; Purchase Price. The Developer agrees to purchase the Site from the Agency and the Agency agrees to sell the Site to the Developer at fair market price, in accordance with and subject to all of the terms, covenants, and conditions of this Agreement. The combined purchase price for Phase I and Phase II shall be Thirty Million, Four Hundred Thousand Dollars ($30,400,000) (the "Purchase Price") allocated Six Million Dollars ($6,000,000) for Phase I (the "Phase I Purchase Price") and Twenty Four Million, Four Hundred Thousand Dollars ($24,400,000) (the "Phase II Purchase Price"). The Phase I Purchase Price and Phase II Purchase Price are each equal to or greater than the fair market value of the applicable portion of the Site, as determined by an appraisal performed by a state-certified appraiser.

201.1 Payment of Agency Costs by Developer. The Developer has hereto provided the Agency with the sum of Fifty Thousand Dollars ($50,000) for use and retention by the

Agency in connection with the preparation and implementation of this Agreement (the "Deposit"). The Deposit shall not be applied to the Purchase Price.

201.2 Payment of the Purchase Price. The Developer shall deposit into the Escrow for the Phase I Closing the all cash sum of Six Million Dollars ($6,000,000) and for Phase II the all cash sum of Twenty Four Million, Four Hundred Thousand Dollars ($24,400,000) in cash, wire transfer or other immediately available funds.

202. Escrow. Within five (5) days after the Date of Agreement, the Parties shall open escrow ("Escrow") with First American Title Insurance Company in its Orange County office or with another escrow company mutually satisfactory to both Parties (the "Escrow Agent").

202.1 Costs of Escrow. The Agency and the Developer shall each pay its respective share of the premium for each Title Policy as set forth in Section 204 hereof, the Agency shall pay the documentary transfer taxes due with respect to the Conveyance of each Phase of the Site, and the parties shall each pay one-half of all other usual fees, charges, and costs which arise from Escrow.

202.2 Escrow Instructions. This Agreement constitutes the joint escrow instructions of Developer and Agency, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The Parties hereto agree to execute and deliver such documents (in recordable form as required), pay or deposit such funds, do all such acts consistent with their respective obligations hereunder as may be reasonably necessary to close the Escrow for each Phase in the shortest possible time and in any event on or before the Outside Date for each Phase. All funds received in the Escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other such escrow trust account in any State or National Bank doing business in the State. All disbursements shall be made by check from such account. If in the opinion of Escrow Agent or either Party it is necessary or convenient in order to accomplish the Closing of this transaction, such Party may require that the Parties sign supplemental escrow instructions; provided that if there is any inconsistency between this Agreement and the supplemental escrow instructions, then the provisions of this Agreement shall control. The Parties agree to execute such other and further documents as may be reasonably necessary, helpful or appropriate to effectuate the provisions of this Agreement. Escrow Agent is instructed to release Agency's and Developer's escrow closing statements to both Parties.

202.3 Authority of Escrow Agent. Escrow Agent is authorized to, and shall:

(a) Pay and charge the Agency and the Developer for their respective shares of the premium of the Title Policies, any endorsements thereto as set forth in Section 204 and any amount necessary to place title in the Condition of Title provided for in Section 203 of this Agreement.

(b) Pay and charge Agency and Developer each for one-half of any escrow fees, charges, and costs payable in accordance with Section 202.1 of this Agreement.

(c) Disburse funds and deliver and record, as applicable, the Grant Deed, the Regulatory Agreement, Notice of Affordability Restrictions, Option Agreement, Association CC&Rs, and Declaration of Uses each for the applicable Phase.

(d) Do such other actions as necessary, including, without limitation, obtaining the Title Policies for each Phase, to fulfill its obligations set forth in this Agreement and to close the transactions contemplated hereby.

(e) Within the discretion of Escrow Agent, direct the Agency and the Developer to execute and deliver any instrument, affidavit, and statement, and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act and regulation promulgated thereunder. Agency agrees to execute a Certificate of Non-Foreign Status by individual transferor and/or a Certification of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act as may be required by Escrow Agent, on the form to be supplied by Escrow Agent.

(f) Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

202.4 Closing. The Site shall be Conveyed in two Phases, Phase I and Phase II. Each Conveyance shall close (the "Closing") simultaneously with or as soon as practical after satisfaction of all of the Conditions Precedent applicable to such Phase. In no event, however, shall the Phase I Closing occur later than September 1, 2011, (the "Phase I Outside Date") and, in no event, shall the Phase II Closing occur later than the earlier of September 1, 2013 or 720 days after the Phase I Closing (the "Phase II Outside Date"). The "Closing" shall mean the time and day the Grant Deed for the applicable Phase is filed for recorded with the County Recorder. The "Closing Date" shall mean the day on which each Closing occurs.

202.5 Termination. If the Escrow is not in a condition to close by the Phase I Outside Date and/or Phase II Outside Date, as applicable, then either Party which is not then in Default (and has not received Notice of a potential Default hereunder which has not been cured) may, in writing, demand the return of its money, documents, or property and terminate the Escrow for such portion of the Site; provided that termination hereunder as to Phase I shall be termination of both Phases and of this Agreement. If either Party makes a written demand for the return of its money, documents, or properties, the Escrow shall not terminate until five (5) days after Escrow Agent shall have delivered copies of such demand to the other Party at its address shown in this Agreement. If any objections are raised within said five (5) day period, Escrow Agent is authorized to hold all funds, documents, and property until instructed by a court of competent jurisdiction or by mutual written instructions of the Parties. Termination of the Escrow shall be without prejudice as to whatever legal rights either Party may have against the other as set forth in Sections 503 and 504 hereof. If no demands are made, the Escrow Agent shall proceed with the Closing as soon as possible.

202.6 Closing Procedure. Escrow Agent shall close each Escrow for the Site as follows:

(a) Record the Grant Deed for the applicable Phase;

(b) Record the Option Agreement;

(c) Record the Regulatory Agreement and Notice of Affordability Restrictions, as applicable;

(d) Record the Declaration of Uses [for the applicable] Retail Improvement parcels;

(e) Record the Association CC&Rs;

(f) Deliver to the Agency the Purchase Price for the applicable Phase, less Escrow and title costs payable by the Agency;

(g) Deliver and record any loan or financing documents as may be requested by the Developer or its construction lender (if applicable);

(h) Instruct the Title Company to deliver the owner's Title Policy to the Developer;

(i) File any informational reports required by Internal Revenue Code Section 6045(e), as amended, and any other applicable requirements;

(j) Deliver the FIRPTA Certificate, if any, to the Developer; and

(k) Forward to both the Developer and the Agency a separate accounting of all funds received and disbursed for each Party and copies of all executed and recorded or filed documents deposited into Escrow, with such recording and filing date and information endorsed thereon.

203. Review of Title. Within the time set forth in the Schedule of Performance, the Agency shall cause First American Title Insurance Company or another title company mutually agreeable to both parties (the "Title Company"), to deliver to the Developer a preliminary title report or reports (collectively, the "Title Report") with respect to the title to each Phase of the Site, together with legible copies of the documents underlying the exceptions ("Exceptions") set forth in the Title Report. The Developer shall have the right to reasonably approve or disapprove the Exceptions; provided, however, that the Developer hereby approves the following Exceptions:

(a) The Redevelopment Plan,

(b) The lien of any non-delinquent property taxes and assessments (to be prorated as of the Closing Date), and

(c) The provisions set forth in the Grant Deed and the Declaration of Uses.

The Developer shall have thirty (30) days from the date of its receipt of the Title Report to give written Notice to the Agency and Escrow Agent of the Developer's approval or disapproval of any of such Exceptions set forth in the Title Report, within its reasonable discretion. Developer's failure to provide Notice of its approval of the Title Report within such time limit shall be deemed disapproval of the Title Report. If the Developer delivers Notice to the Agency of its disapproval of any Exceptions in the Title Report, the Agency shall have the right, but not the obligation, to elect to remove any disapproved Exceptions within thirty (30) days after receiving written Notice of the Developer's disapproval or to deliver Notice to the Developer providing assurances satisfactory to

the Developer within said time period that such Exception(s) will be removed on or before the Closing. If the Agency cannot or does not elect to remove any of the disapproved Exceptions within that period, the Developer shall have fifteen (15) days after the expiration of such thirty (30) day period to either give the Agency written Notice that the Developer elects to proceed with the purchase of the Site subject to the disapproved Exceptions or to give the Agency written Notice that the Developer elects to terminate this Agreement and the Developer's failure to give timely written Notice shall be deemed as an election to terminate this Agreement. Fee simple merchantable title subject only to the Exceptions to title approved by the Developer as provided herein shall hereinafter be referred to as the "Condition of Title." The Developer shall have the right to approve or disapprove any further Exceptions reported by the Title Company after the Developer has approved the Condition of Title for the Site (which are not created by the Developer). The Agency shall not voluntarily create any new exceptions to title following the Date of Agreement.

204. Title Insurance. Concurrently with recordation of the Grant Deed conveying title to each Phase of the Site, the Title Company shall issue to the Developer, at the Developer's election, a CLTA or an ALTA owner's policy of title insurance (the "Title Policy"), together with such endorsements as are reasonably requested by the Developer, insuring that the title to such Phase of the Site is vested in the Developer in the Condition of Title approved by the Developer as provided in Section 203 of this Agreement. The Title Company shall provide the Agency with a copy of the Title Policy. The Agency shall pay the portion of the premium for the Title Policy equal to the cost of a CLTA standard policy of title insurance in the amount of the Purchase Price for such Phase, and the Developer shall pay for any additional costs thereof, including the incremental additional cost of obtaining an ALTA policy, any endorsements to the title policy, and the cost of any survey which is performed.

205. Conditions Precedent to Closing. The Closing of the Conveyance of each portion of the Site is conditioned upon the satisfaction (or written waiver by the benefited Party or Parties in its or their sole and absolute discretion) of the following terms and conditions within the times designated below:

205.1 Agency's Conditions Precedent to the Phase I Closing. The Agency's obligation to proceed with the Phase I Closing is subject to the fulfillment or waiver by Agency of each and all of the conditions precedent (a) through (i), inclusive, described below (the "Agency's Phase I Conditions Precedent"), which are solely for the benefit of the Agency, and which shall be fulfilled or waived by the time periods provided for herein:

(a) No Breach or Default. At the Phase I Closing, the Developer shall not be in Breach or Default of any of its obligations set forth in this Agreement and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

(b) Execution of Documents. The Developer shall have executed the Regulatory Agreement, Notice to Affordability Restrictions, Option Agreement, Association CC&Rs and the Declaration of Uses for Phase I, and any other documents required to be executed by the Developer hereunder, and delivered such documents into Escrow.

(c) Payment of Funds. Prior to the Close of Escrow, the Developer shall have paid the Phase I Purchase Price and deposited into Escrow all costs of Closing that are the Developer's responsibility in accordance with Sections 201, 202, and 204 hereof.

(d) Land Use Approvals. The Developer shall have received all land use approvals, permits and other entitlements that are required for development of the Improvements on the Site pursuant to Sections 302 and 303 of this Agreement. There shall be no litigation pending which challenges such Land Use Approvals, permits or other entitlements, or the validity of this Agreement.

(e) Insurance. The Developer shall have provided proof of insurance for Phase I as required by Section 306 hereof.

(f) Financing. The Agency shall have approved financing of the Improvements for Phase I as provided in Section 311.1 hereof, and such financing shall have closed and funded or shall be ready to close and fund upon the Phase I Closing.

(g) Site Clearance and Relocation. The Agency shall have cleared Phase I and relocated all tenants or other occupants from Phase I.

(h) Developer Approval of Physical and Environmental Condition of the Site. Developer shall have approved the Physical and Environmental Condition of the Site pursuant to Section 208 hereof.

(i) Title Policy. The Title Company is unconditionally committed to issue to Agency a lender's Title Policy for the Site in accordance with Section 204 hereof.

205.2 Developer's Conditions Precedent to the Phase I Closing. Developer's obligation to proceed with the purchase of Phase I is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent (a) through (g), inclusive, described below (the "Developer's Phase I Conditions Precedent"), which are solely for the benefit of Developer, and which shall be fulfilled or waived by the time periods provided for herein:

(a) No Breach or Default. At the Phase I Closing, the Agency shall not be in Breach or Default of any of its obligations set forth in this Agreement and all representations and warranties of Agency contained herein shall be true and correct in all material respects.

(b) Execution of Documents. The Agency shall have executed the Phase I Grant Deed and the Declaration of Uses for Phase I and any other documents required to be executed by the Agency hereunder, and delivered such documents into Escrow.

(c) Financing. The financing of the Improvements for Phase I shall have closed and funded or shall be ready to close and fund upon the Phase I Closing.

(d) Land Use Approvals. The Developer shall have received all Land Use Approvals, permits and other entitlements that are required for development of the Improvements on the Site pursuant to Sections 302 and 303 of this Agreement. There shall be no litigation pending which challenges such Land Use Approvals, or the validity of this Agreement.

(e) Site Clearance and Relocation. The Agency shall have cleared Phase I and relocated all tenants or other occupants from Phase I.

(f) Condition of Site. Developer shall have approved the Physical and Environmental Condition of the Site pursuant to Section 208 hereof.

(g) Title Policy. The Title Company is unconditionally committed to issue to Developer an owner's Title Policy for the Site in accordance with Section 204 hereof.

205.3 Agency's Conditions Precedent to the Phase II Closing. The Agency's obligation to proceed with the Phase II Closing is subject to the fulfillment or waiver by Agency of each and all of the conditions precedent (a) through (g), inclusive, described below (the "Agency's Phase II Conditions Precedent"), which are solely for the benefit of the Agency, and which shall be fulfilled or waived by the time periods provided for herein:

(a) No Breach or Default. At the Phase II Closing, the Developer shall not be in Breach or Default of any of its obligations set forth in this Agreement and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

(b) Execution of Documents. The Developer shall have executed the Regulatory Agreement, Notice to Affordability Restrictions, Option Agreement, Association CC&Rs and the Declaration of Uses for Phase II, and any other documents required to be executed by the Developer hereunder, and delivered such documents into Escrow.

(c) Payment of Funds. Prior to the Close of Escrow, the Developer shall have paid the Phase II Purchase Price and deposited into Escrow all costs of Closing that are the Developer's responsibility in accordance with Sections 201, 202, and 204 hereof.

(d) No Litigation. There shall be no litigation pending which challenges the Land Use Approvals or the validity of this Agreement.

(e) Insurance. The Developer shall have provided proof of insurance for Phase II as required by Section 306 hereof.

(f) Financing. The Agency shall have approved financing of the Improvements for Phase II, Subphase A as provided in Section 311.1 hereof, and such financing shall have closed and funded or shall be ready to close and fund upon the Phase II Closing.

(g) Site Clearance and Relocation. The Agency shall have cleared Phase II and relocated all tenants or other occupants from Phase II.

(h) Ministerial Approvals. Developer shall have secured Ministerial Approvals for Phase II, Subphase A.

205.4 Developer's Conditions Precedent to the Phase II Closing. Developer's obligation to proceed with the purchase of Phase II is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent (a) through (e), inclusive, described below (the "Developer's Phase II Conditions Precedent"), which are solely for the benefit of Developer, and which shall be fulfilled or waived by the time periods provided for herein:

(a) No Breach or Default. At the Phase II Closing, the Agency shall not be in Breach or Default of any of its obligations set forth in this Agreement and all representations and warranties of Agency contained herein shall be true and correct in all material respects.

(b) Execution of Documents. The Agency shall have executed the Grant Deed, the Regulatory Agreement, Notice of Affordability Restrictions, Option Agreement, Association CC&Rs and the Declaration of Uses for Phase II and any other documents required to be executed by the Agency hereunder, and delivered such documents into Escrow.

(c) Financing. The Financing for Phase II, Subphase A shall have closed and funded or shall be ready to close and fund upon the Phase II Closing.

(d) No Litigation. There shall be no litigation pending which challenges the Land Use Approvals or the validity of this Agreement.

(e) Site Clearance and Relocation. The Agency shall have cleared Phase II and relocated all tenants or other occupants from Phase II.

206. Representations and Warranties.

206.1 Agency Representations. The Agency represents and warrants to the Developer as follows:

(a) Authority. The Agency is a public body, corporate and politic, existing pursuant to the Community Redevelopment Law, which has been authorized to transact business pursuant to action of the City. The execution, performance and delivery of this Agreement by the Agency has been fully authorized by all requisite actions on the part of the Agency.

(b) FIRPTA. The Agency is not a "foreign person" within the parameters of FIRPTA or any similar state statute, or is exempt from the provisions of FIRPTA or any similar state statute, or the Agency has complied and will comply with all the requirements under FIRPTA or any similar state statute.

(c) No Conflict. The Agency's execution, delivery and performance of its obligations set forth in this Agreement will not constitute a default or a breach under any contract, agreement or order to which the Agency is a party or by which it is bound.

(d) Condition of the Site. To its Actual Knowledge, the Agency is not aware of and neither the Agency nor the City has received any notice or communication from any government agency having jurisdiction over the Site notifying the Agency or the City of the presence of surface or subsurface zone Hazardous Materials in, on, or under the Site, or any portion thereof. "Actual Knowledge," as used herein, shall not impose a duty of investigation, and shall be limited to the best knowledge of Agency and City employees and agents who are responsible for the management of the Site or have participated in the preparation of this Agreement, and all documents and materials in the possession of the Agency and the City.

(e) No Litigation. To the Agency's Actual Knowledge, there is no threatened or pending litigation against the City or Agency challenging the validity of this Agreement or any of the actions proposed to be undertaken by the City, Agency, or Developer pursuant to this Agreement (including without limitation any of the existing or proposed land use entitlements, permits or approvals).

Until each Closing has occurred, the Agency shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 206.1 to not be true as of

such Closing, immediately give written Notice of such fact or condition to the Developer. So long as the representations and warranties contained herein were true as of the Date of Agreement, a change of facts or conditions that renders any such representation or warranty to no longer be true at a later date shall not be deemed a Default by the Agency hereunder if the Agency does not take any affirmative action to cause such representation or warranty to no longer be true, and in such event (i.e., in the event the Agency is not in Default) the changed fact or condition shall constitute an exception which the Developer shall have a right to approve or disapprove if the Developer determines in its reasonable discretion that such exception would have an effect on the value and/or development of the Site. If the Developer elects to close Escrow following the Agency's disclosure of such exception(s), the Agency's representations and warranties contained herein shall be deemed to have been made as of the Closing subject to such exception(s). If, following the disclosure of such exception(s), the Developer elects to not close Escrow, then this Agreement and the Escrow may be terminated by Developer as set forth in Section 503 hereof. The representations and warranties set forth in this Section 206.1 shall survive the Closings.

206.2 Developer's Representations. The Developer represents and warrants to the Agency as follows:

(a) Experience. The Developer is an experienced developer of mixed use residential, including affordable housing, rental, and commercial/retail developments.

(b) Authority. The Developer is a duly organized corporation formed within and in good standing under the laws of the State of California. The Developer has full right, power and lawful authority to purchase and accept the Conveyance of the Site and undertake all obligations as provided herein and the execution, performance and delivery of this Agreement by the Developer has been fully authorized by all requisite actions on the part of the Developer.

(c) No Conflict. The Developer's execution, delivery and performance of its obligations set forth in this Agreement will not constitute a default or a breach under any contract, agreement or order to which the Developer is a party or by which it is bound.

(d) No Developer Bankruptcy. The Developer is not the subject of a current or threatened bankruptcy proceeding.

Until each Closing has occurred, the Developer shall, upon learning of any fact or condition which would cause any of the representations and warranties in this Section 206.2 to not be true as of each of the Closings, immediately give written Notice of such fact or condition to the Agency. So long as the representations and warranties contained herein were true as of the Date of Agreement, a change of facts or conditions that renders any such representation or warranty to no longer be true at a later date shall not be deemed a Default by the Developer hereunder if the Developer does not take any affirmative action to cause such representation or warranty to no longer be true, and in such event (i.e., in the event the Developer is not in Default) the changed fact or condition shall constitute an exception which Agency shall have a right to approve or disapprove if the Agency determines in its reasonable discretion that such exception would have an effect on the Developer's authority or ability to timely develop the Site as provided in this Agreement. If the Agency elects to close Escrow following the Developer's disclosure of such exception(s), the Developer's representations and warranties contained herein shall be deemed to have been made as of the Closing subject to such exception(s). If, following the disclosure of such exception(s), the Agency elects to not close Escrow, then this Agreement and the Escrow may be terminated by the Agency as provided in

Section 504 hereof. The representations and warranties set forth in this Section 206.2 shall survive the Closings.

207. Studies and Reports; Access to the Site for Inspection and Testing. Within the time set forth in the Schedule of Performance, the Agency shall deliver to the Developer a copy of all information in its possession and/or in the possession of the City with respect to the Physical and Environmental Condition of the Site. The Developer shall be permitted to enter onto the Site within the first one hundred twenty (120) days after the date of this Agreement for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement, including the investigation of the Physical and Environmental Condition of the Site (the "Tests"). The Developer shall execute a right of entry agreement, in the form provided by the Agency, prior to its entry. Any preliminary investigation or work shall be undertaken only after securing any necessary permits from the appropriate governmental agencies.

208. Physical and Environmental Condition of the Site.

208.1 Site Clearance. The Agency shall deliver each Phase free and clear of any above ground structures.

208.2 As-Is Condition; Exceptions. Except as otherwise set forth in this Agreement, the Site shall be conveyed to the Developer in an "as is," with no warranty, express or implied, by the Agency as to its Physical and Environmental Condition, and it shall be the sole responsibility of the Developer at its expense to investigate and determine the Physical and Environmental Condition for the Improvements to be constructed and the proposed use of same. If the Physical or Environmental Condition is not in all respects entirely suitable for the use or uses to which the Site will be put, the Developer may terminate this Agreement as provided in Section 208.2 hereof. If the Developer approves the Physical and Environmental Condition of the Site and accepts the Conveyance of Phase I (and assuming the Agency has not elected to pay for the cost of curing or correcting physical or environmental defects or problems with the Site pursuant to the optional provisions of the fourth sentence of Section 208.2), then it shall be the sole responsibility and obligation of the Developer to take such action as may be necessary to place the Physical and Environmental Conditions of the entire Site in a condition entirely suitable for its development.

208.3 Physical and Environmental Investigation and Testing of Site. The Developer shall have the right, at its sole cost and expense, to engage its own environmental consultant (the "Environmental Consultant") to make such investigations of the Site as the Developer deems necessary, and the Agency shall promptly be provided a copy of all reports and test results provided to the Developer by the Environmental Consultant (collectively, the "Environmental Report"). The Developer shall reasonably approve or disapprove of the Physical and Environmental Condition of the Site within the time set forth in the Schedule of Performance. The Developer's failure to deliver written Notice of its approval within such time limit shall be deemed disapproval of the Physical and Environmental Condition of the Site. If the Developer, based upon the above environmental reports, reasonably disapproves the physical or environmental condition of the Site, then the Agency shall have the right, but not the obligation, to elect to pay for the cost of correcting or curing any physical or environmental defect or problem with the Site identified by the Developer, provided that the Developer must approve in writing the content and timing of any plan requiring removal and/or remediation of Hazardous Materials. If the Agency and the Developer do not agree on such matters within ninety (90) days after the date the Developer initially disapproves or is deemed to have disapproved the Physical and Environmental Condition of the Site, as provided

above, the Developer shall be deemed to have adhered to its initial disapproval and either party may terminate this Agreement by written Notice to the other pursuant to Section 503 hereof.

208.4 Release of Agency. The Developer hereby waives, releases and discharges forever the Agency and the City, and their respective employees, officers, agents and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with the Physical and Environmental Condition of the Site, any Hazardous Materials on or under the Site, or the existence of Hazardous Materials contamination due to the generation of Hazardous Materials from the Site, however they came to be placed there.

The Developer acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

As such relates to this Section 208.3, the Developer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

208.5 Developer Precautions After Closing. Upon and after each Closing, the Developer shall take all necessary but reasonable precautions to prevent the release into the environment of any Hazardous Materials which are located in, on or under the Phase which has been conveyed to the Developer, except as may be provided otherwise by applicable Governmental Requirements. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, the Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with commercially reasonable standards as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

208.6 Developer Indemnity. Upon and after each Closing, the Developer agrees to indemnify, defend and hold the Agency and City and their respective employees, officers, agents and representatives harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, reasonable attorneys' fees), resulting from, arising out of, or based upon the Physical and Environmental Condition of the Phase acquired, including without limitation, (i) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from the Site which occurs during the period of the Developer's ownership of the Site, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about, to or from, the Site which occurs during the period of the Developer's ownership of the Site. This indemnity shall include, without limitation, any damage, liability, fine, penalty, or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination, leak, spill, release or other adverse effect on the environment. At the request of the Developer, the Agency shall cooperate with and assist the Developer in its defense of any such claim, action, suit,

proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense; provided that the Agency shall not be obligated to incur any expense in connection with such cooperation or assistance.

300. DEVELOPMENT OF THE SITE

301. Scope of Development.

301.1 Developer's Obligation to Construct Improvements. Subject to all of the other terms and conditions set forth in this Agreement, the Developer shall develop or cause the development of the Improvements in accordance with the Scope of Development, the City's Municipal Code, and the plans, drawings and documents submitted by the Developer and approved by the Agency as set forth herein. The Improvements shall generally consist of the following: Phase I of the Improvements will consist of approximately 148 attached For Sale Units in three (3), four (4)-story buildings. Phase II of the Improvements will be developed in multiple Subphases and will consist of approximately 252 attached For Sale Units in five (5), four (4)-story buildings, approximately 200 Rental Units, of which 60 will be Affordable Rental Units or, at the election of the Developer, the Affordable Rental Units may be increased to 120, and approximately 80,000 square feet of retail space. Developer shall also construct related onsite improvements and all public improvements, all as identified in the Scope of Development or required pursuant to the land use approvals listed in Sections 302-303 hereof. Phase II will be developed in multiple Subphases. Phase II may also include the Hotel Component.

301.2 Local Contractors. The Developer shall use good faith efforts to solicit and obtain bids from local businesses for the construction of the Improvements by making available to local contractors all plans for the Improvements in the manner reasonably selected by the Developer, which may include, without limitation, submission to the Building and Trades Council of Orange County, the Plan Room and/or the Green Sheet. To the extent the Developer reasonably determines it is feasible, contracts for work to be performed in connection with the construction of the Improvements shall be awarded to business concerns which are located in, or owned in substantial part by persons residing within, the City, provided, however, the Developer shall not be required to award contracts to the lowest bidder, and may award contracts in accordance with the Developer's normal contracting and purchasing policies based upon criteria such as the experience, financial strength, and dependability of the contractors and subcontractors submitting bids.

302. Design Review.

302.1 Developer Submissions. As a Condition Precedent to the Phase I Closing, and at or prior to the time set forth in the Schedule of Performance, the Developer shall submit to the City any plans and drawings (collectively, the "Design Development Drawings") which may be required by the City with respect to any permits and entitlements which are required to be obtained to develop the Phase I Improvements. Developer, on or prior to the date set forth in the Schedule of Performance, shall further submit to the City such plans for the Phase I Improvements as required by the City in order for Developer to obtain building permits for the Phase I Improvements. To the extent required by the City in order to accept such plans and permit applications for processing (given that the Developer may not own fee title to the Site at the time and may not have obtained the written authorization from the owners of the Parcels to apply for and process such plans and permits), provided that such submittal is in accordance with this Agreement and Developer is not in Breach or Default hereunder, the Agency shall sign any such application as a co-applicant with the Developer

and cooperate with the Developer in order to expedite the City's review thereof (but without any representation or warranty by the Agency that the City will approve any such application or approve such application with or without any particular conditions). Within thirty (30) days after the City's disapproval or conditional approval of such plans, Developer shall revise the portions of such plans identified by the City as requiring revisions and resubmit the revised plans to the City; provided, however, that the Developer reserves the right to deliver a Notice of termination to the Agency pursuant to Section 503 hereof if the Developer determines in its sole and absolute discretion that the required revisions adversely and materially affect the value or development of the Site.

302.2 City Review and Approval. The City shall have all rights to review and approve or disapprove all Design Development Drawings and other required submittals in accordance with the City Municipal Code, and nothing set forth in this Agreement shall be construed as the City's approval of any or all of the Design Development Drawings.

302.3 Revisions. Subject to the Developer's reserved termination right as set forth herein, any and all change orders or revisions required by the City and its inspectors which are required under the Municipal Code and all other applicable Uniform Codes (e.g. Building, Plumbing, Fire, Electrical, etc.) and under other applicable laws and regulations shall be included by the Developer in its Design Development Drawings and other required submittals and shall be completed during the construction of the Improvements.

302.4 Defects in Plans. The Agency and the City shall not be responsible either to the Developer or to third parties in any way for any defects in the Design Development Drawings, nor for any structural or other defects in any work done according to the approved Design Development Drawings, nor for any delays reasonably caused by the City review and approval processes established by this Section 302.

303. Land Use Approvals. As a Condition Precedent to the Phase I Closing, the Developer shall, at its own expense, secure or cause to be secured any and all land use, development and building entitlements, permits and approvals which may be required for the construction and sale and/or operation by the City or any other governmental agency with jurisdiction over such construction or work including, without limitation, those listed in (a) through (g) below ("Land Use Approvals"). The staff of the Agency shall cooperate with and assist the Developer in obtaining such entitlements, permits and approvals (including without limitation signing any applications for such entitlements, permits, and approvals as a co-applicant with the Developer, as provided in Section 302 hereof); provided, however, that this Agreement does not constitute the granting of such entitlements, permits and approvals. The Developer shall, without limitation, apply for and exercise commercially reasonable efforts to secure the following, to the extent required by the City, and the Developer shall pay all normal costs, charges and fees associated therewith:

(a) General Plan Amendment and zoning change for the Site.

(b) Site Plan.

(c) A subdivision map.

(d) A development agreement between the Developer and the City that provides for the Developer's payment of the City's standard development impact fee ("DIF") for the Improvements.

(e) All other discretionary entitlements, permits, and approvals required by the City, County, and other governmental agencies with jurisdiction over the Improvements.

(f) Any environmental studies and documents required pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000, *et seq.*, with respect to any of the discretionary entitlements, permits, and approvals referred to in clauses (a)-(e), inclusive.

(g) All ministerial entitlements, permits, and approvals as to the Phase I Improvements that may be required, including without limitation and to the extent applicable a final tract map, rough and precise grading permit(s), and approval of final building plans and permits, utility plans, public works improvement plans for the perimeter offsite improvements and any encroachment permits required for work to be performed within the public right-of-way, and landscaping plans ("Ministerial Approvals").

As a Condition Precedent to the Phase II Closing, Developer shall secure the Ministerial Approvals for Phase II, Subphase A.

304. Schedule of Performance. The Developer shall submit all Design Development Drawings, Plan Drawings and Construction Drawings, commence and complete all construction of the Improvements, and satisfy in all material respects all other obligations and conditions of this Agreement, and the Agency shall satisfy all of its obligations and conditions pursuant to this Agreement, within the times established therefor in the Schedule of Performance.

305. Cost of Construction. All of the costs of planning, designing, developing and constructing all of the Improvements, site preparation and grading shall be borne solely by the Developer.

306. Insurance Requirements. The Developer shall take out and maintain or shall cause its contractor to take out and maintain until the issuance of the Release of Construction Covenants pursuant to Section 310 of this Agreement, a commercial general liability policy including contractual liability, in the minimum amount of Five Million Dollars ($5,000,000), and an automobile liability policy in the minimum amount of Two Million Dollars ($2,000,000), combined single limit, as shall protect the Developer, the City, and the Agency from claims for such damages, and which policies shall be issued by an "A" rated insurance carrier. Such policy or policies shall be written on an occurrence form. The Developer shall also furnish or cause to be furnished to the Agency evidence satisfactory to the Agency that the Developer and any contractor with whom it has contracted for the performance of work on the Site or otherwise pursuant to this Agreement carries workers' compensation insurance as required by law. Prior to and as an Agency Condition Precedent to each Phase or Subphase, as applicable, the Developer shall furnish a certificate of insurance countersigned by an authorized agent of the insurance carrier on a form approved by the Agency setting forth the general provisions of the insurance coverage. This countersigned certificate shall name the City and the Agency and their respective officers, agents, and employees as additionally insured parties under the policy, and the certificate shall be accompanied by a duly executed endorsement evidencing such additional insured status. The certificate and endorsement by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify the City and the Agency of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by the Developer shall be primary insurance and not be contributing

with any insurance maintained by the Agency or the City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the City and the Agency. The required certificate shall be furnished by the Developer at the time set forth therefor in the Schedule of Performance.

307. Developer's Indemnity. The Developer shall defend, indemnify, assume all responsibility for, and hold the Agency and the City, and their representatives, volunteers, officers, employees and agents, harmless from all claims, demands, defense costs, and liability of any kind or nature arising out of or related to the design, construction, or operation of the Improvements or the Site, which may be caused by any acts or omissions of the Developer, whether such acts or omissions be by the Developer or by anyone directly or indirectly employed or contracted with by the Developer and whether such damage shall accrue or be discovered before or after termination of this Agreement. The Developer shall further defend, indemnify, assume all responsibility for, and hold the Agency and the City, and their officers, employees, agents, representatives and volunteers, harmless from challenges to the approval, validity, applicability, interpretation or implementation of this Agreement or the California Environmental Quality Act approvals made in connection therewith. The Developer shall not be liable for and this Section 307 not apply to any such matters occasioned by the gross negligence or intentional misconduct of the Agency or its agents or employees, or the Agency's Default of its obligations or breach of its representations or warranties hereunder.

The Developer shall have the obligation to defend any such action as to which this Section 307 applies; provided, however, that this obligation to defend shall not be effective if and to the extent that Developer determines in its reasonable discretion that such action is meritorious or that the interests of the parties justify a compromise or a settlement of such action, in which case Developer shall compromise or settle such action in a way that fully protects Agency and City from any liability or obligation. In this regard, Developer's obligation and right to defend shall include the right to hire (subject to written approval by the Agency and City) attorneys and experts necessary to defend, the right to process and settle reasonable claims, the right to enter into reasonable settlement agreements and pay amounts as required by the terms of such settlement, and the right to pay any judgments assessed against Developer, Agency, or City. If Developer defends any such action as to which this Section 307 applies, as set forth above, it shall indemnify and hold harmless Agency and City and their officers, employees, representatives and agents from and against any claims, losses, liabilities, or damages assessed or awarded against either of them by way of judgment, settlement, or stipulation.

308. Rights of Access. Prior to the issuance of a Release of Construction Covenants (as specified in Section 310 of this Agreement), for purposes of assuring compliance with this Agreement, representatives of the Agency shall have the right of access to the Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including but not limited to, the inspection of the work being performed in constructing the Improvements so long as Agency representatives comply with all safety rules. The Agency (or its representatives) shall, except in emergency situations, notify the Developer prior to exercising its rights pursuant to this Section 308. The Agency shall defend, indemnify, assume all responsibility for, and hold the Developer and its representatives, officers, employees, agents, contractors, and subcontractors harmless from all claims, demands, defense costs, and liability of any kind or nature arising out of the Agency's exercise of this right of access, except to the extent caused by the negligence or willful misconduct of the Developer or its representatives, officers, employees, agents, contractors, or subcontractors.

309. Compliance With Governmental Requirements. The Developer shall carry out the design, construction, and operation of the Improvements in conformity with all applicable laws, including the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all Governmental Requirements.

309.1 Taxes and Assessments. The Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site accruing after the Closing Date, subject to the Developer's right to contest in good faith any such taxes. The Developer shall remove or have removed any levy or attachment made on any portion of the Site which has been conveyed to the Developer with respect to real estate taxes and assessments on the Site accruing after the Closing Date, or assure the satisfaction thereof within a reasonable time. The Developer shall not apply for or receive any exemption from the payment of property taxes or assessments on any interest in or to the Site or the Improvements.

309.2 Relocation; Obligations. The Agency shall be responsible for causing all occupants of the Site to vacate prior to the Closing, and for complying and/or causing compliance with all applicable laws and regulations concerning the displacement and/or relocation of all Eligible Persons from the Site, if any, including without limitation, compliance with the California Relocation Assistance Law, California Government Code Section 7260, *et seq.*, all state and local regulations implementing such laws, and all other applicable state and local laws and regulations relating to such Eligible Persons.

310. Release of Construction Covenants. Promptly after completion of the Improvements or any portion thereof in conformity with this Agreement free and clear of any claims and/or liens, and upon the request of the Developer, the Agency Director shall furnish the Developer with a "Release of Construction Covenants" substantially in the form of Attachment No. 9 hereto which is incorporated herein by reference. The Agency Director shall not unreasonably withhold, condition, or delay delivery of such Release of Construction Covenants. The Release of Construction Covenants shall be a conclusive determination of satisfactory completion of the applicable portion of the Improvements and the Release of Construction Covenants shall so state.

If the Agency Director refuses or fails to furnish the Release of Construction Covenants, after written request from the Developer, the Agency Director shall, within fifteen (15) days of written request therefor, provide the Developer with a written statement of the reasons the Agency Director refused or failed to furnish the Release of Construction Covenants. The statement shall also contain the Agency Director's opinion of the actions the Developer must take to obtain the Release of Construction Covenants. If the Agency shall have failed to provide such written statement within such fifteen day period, the Developer shall be deemed entitled to the Release of Construction Covenants as to the Site. The Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the Improvements, or any part thereof. The Release of Construction Covenants is not a notice of completion as referred to in Section 3093 of the California Civil Code.

311. Financing of the Improvements.

311.1 Approval of Financing. As required herein, the Developer shall submit to the Agency Director reasonable evidence that the Developer has obtained sufficient equity capital and/or that the Developer has obtained commitments for construction financing necessary to

undertake the development of each and the construction of the Improvements for Phase I (as a Condition Precedent to the Phase I Closing) and Phase II, Subphase A (as a Condition Precedent to the Phase II Closing) in accordance with this Agreement. Such evidence of financing shall include, as applicable, the following: (a) the annual report or audited financial statement of the institutional lender proposing to provide the construction financing, (b) a copy of a loan commitment(s) obtained by Developer from one or more institutional lenders, reasonably acceptable to the Agency, for the mortgage loan or loans for financing to fund the construction of the Improvements, subject to such lenders' reasonable, customary and normal conditions and terms, and/or (c) evidence reasonably satisfactory to Agency that Developer has sufficient funds for such construction, and that such funds have been committed to such construction, and/or other documentation reasonably satisfactory to the Agency Director as evidence of other sources of capital sufficient to demonstrate that Developer has adequate funds to cover the difference between the total cost of the construction of the Improvements, less financing authorized by those loans set forth in clause (a) above.

The Agency Director shall approve or disapprove such institutional lender and evidence of financing capacity or commitments within thirty (30) days of receipt of a complete submission. Approval shall not be unreasonably withheld, delayed or conditioned. If the Agency Director shall disapprove any such evidence of financing, he or she shall do so by written Notice to Developer stating the reasons for such disapproval. Upon receipt of the Agency Director's disapproval of the proposed financing, the Developer shall either promptly obtain and submit new evidence of financing to the Agency Director or terminate this Agreement as provided in Section 503 hereof. The Agency Director shall approve or disapprove such new evidence of financing in the same manner and within the same times established in this Section 311.1 for the approval or disapproval of the evidence of financing as initially submitted. If any portion of the Developer's financing consists of secured third party loans, the Developer shall close the approved construction financing at the Closing.

311.2 No Encumbrances Except Mortgages, Deeds of Trust, or Sale and Lease-Back for Development. Mortgages, deeds of trust and sales and leasebacks shall be permitted prior to the issuance of the Release of Construction Covenants only with the Agency Director's prior written approval, which shall not be unreasonably withheld or delayed, but only for the purpose of securing loans of funds to be used for financing the construction of the Improvements (including architecture, engineering, legal, and related direct costs as well as indirect costs) on or in connection with the Site, and any other purposes necessary and appropriate in connection with development under this Agreement. The Developer shall notify the Agency Director in advance of any mortgage, deed of trust or sale and lease-back financing, if the Developer proposes to enter into the same before completion of the construction of the Improvements. The words "mortgage" and "trust deed" as used hereinafter shall include sale and leaseback. Prior to the Agency's issuance of its Release of Construction Covenants for the Site, the Developer shall not enter into any such conveyance for financing encumbering the Site without the prior written approval of the Agency Director.

311.3 Holder Not Obligated to Construct Improvements. The holder of any mortgage or deed of trust authorized by this Agreement shall not be obligated by the provisions of this Agreement to construct or complete the Improvements or any portion thereof, or to guarantee such construction or completion; nor shall any covenant or any other provision in this Agreement be construed so as to obligate such holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

311.4 Notice of Default to Mortgagee or Deed of Trust Holders; Right to Cure. With respect to any mortgage or deed of trust granted by the Developer as provided herein, whenever the Agency may deliver any notice or demand to the Developer with respect to any Default by the Developer in completion of construction of the Improvements, the Agency may at the same time deliver to each holder of record of any mortgage or deed of trust authorized by this Agreement a copy of such notice or demand. Each such holder shall (insofar as the rights granted by the Agency are concerned) have the right, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy and thereafter to pursue with due diligence the cure or remedy of any such Default and to add the cost thereof to the mortgage debt and the lien of its mortgage. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Improvements, or any portion thereof (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the Agency by written agreement reasonably satisfactory to the Agency. The holder, in that event, must agree to complete, in the manner provided in this Agreement, the improvements to which the lien or title of such holder relates. Any such holder properly completing such improvement shall be entitled, upon compliance with the requirements of Section 310 of this Agreement, to a Release of Construction Covenants. It is understood that a holder shall be deemed to have satisfied the ninety (90) day time limit set forth above for commencing to cure or remedy a Developer Default which requires title and/or possession of the Site (or portion thereof) if and to the extent any such holder has within such ninety (90) day period commenced proceedings to obtain title and/or possession and thereafter the holder diligently pursues such proceedings to completion and cures or remedies the Default.

311.5 Failure of Holder to Complete Developer Improvements. In any case where, thirty (30) days after the holder of any mortgage or deed of trust creating a lien or encumbrance upon the Site or any part thereof receives a notice from Agency of a Default by the Developer in completion of construction of the Developer Improvements under this Agreement, and such holder has not exercised the option to construct as set forth in Section 311, or if it has exercised the option but has Defaulted hereunder and failed to timely cure such Default, the Agency may purchase the mortgage or deed of trust by payment to the holder of the amount of the unpaid mortgage or deed of trust debt, including principal and interest and all other sums secured by the mortgage or deed of trust. If the ownership of the Site or any part thereof has vested in the holder, the Agency, if it so desires, shall be entitled to a conveyance from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following:

(a) The unpaid mortgage or deed of trust debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

(b) All expenses with respect to foreclosure including reasonable attorneys' fees;

(c) The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Site or part thereof;

(d) The costs of any improvements made by such holder;

(e) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency; and

(f) Any customary prepayment charges or defeasance costs imposed by the lender pursuant to its loan documents and agreed to by the Developer.

(g) Any or all other amounts, costs or expenses payable to the holder under the holder's loan document approved pursuant to Section 311.2.

(h) The Agency's right to purchase any mortgage or deed of trust under this Section 311.5 shall terminate upon the issuance of a Release of Construction Covenants pursuant to Section 310.

311.6 Right of the Agency to Cure Mortgage or Deed of Trust Default. In the event of a mortgage or deed of trust default or breach by the Developer prior to the completion of the construction of any of the Improvements or any part thereof, the Developer shall immediately deliver to Agency a copy of any mortgage holder's notice of default. If the holder of any mortgage or deed of trust has not exercised its option to construct, the Agency shall have the right but no obligation to cure the default. In such event, the Agency shall be entitled to reimbursement from the Developer of all proper costs and expenses incurred by the Agency in curing such default. The Agency shall also be entitled to a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be junior and subordinate to the mortgages or deeds of trust pursuant to this Section 311.

400. USE, MAINTENANCE, AND NON-DISCRIMINATION COVENANTS AND RESTRICTIONS

401. Use and Operation in Accordance with the Agreement and the Redevelopment Plan. The Developer covenants and agrees for itself, its successors, assigns, and every successor in interest to the Site or any part thereof to use, operate, and maintain the Site in accordance with in the Redevelopment Plan and this Agreement. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall conform to the Redevelopment Plan, all applicable provisions of the City Municipal Code and the recorded documents pertaining to and running with the Site. The foregoing covenant shall run with the land.

402. Use of Retail Improvements. Until the expiration of the Redevelopment Plan, the Retail Improvements shall be used only for retail and commercial purposes. Upon the Closing for each Phase, the Agency and Developer shall execute and record a Declaration of Uses, substantially in the form attached hereto as Attachment No. 6 and incorporated herein.

403. Maintenance and CC&Rs. The Developer shall maintain or cause to be maintained the Improvements and the Site in a decent, safe and sanitary manner, in accordance with the standard of maintenance of similar mixed-use developments within Orange County, California. The Developer shall prepare and submit to the Agency's legal counsel for its reasonable approval a Declaration of Covenants, Conditions and Restrictions for each of the separate Housing Units and Retail Improvements to be constructed within the Site and a master association over all of the Improvements (the "Association CC&Rs"), which establishes a separate property owner's association for the For Sale Units, Rental Units, and Retail Improvements (each, an "Association(s)") and a property owner's association for all of the Improvements ("Master Association"). Each

Association CC&Rs shall require the owners of the Housing Units and Retail Improvements to be members of the Associations. In addition, the Master Association CC&Rs shall require reciprocal access and parking and the maintenance of the Improvements and the Site in accordance with the standards of this Section 403 and the standards of similar mixed-use developments within the County. The Association CC&Rs shall be enforceable by the Agency, and any substantive amendments to such Association CC&Rs shall require the consent of the Agency, which consent shall not unreasonably be withheld. The Association CC&Rs shall be recorded against the applicable portion of the Site concurrently with the Applicable Closing. The Association CC&Rs shall specifically state that the Agency is an intended third party beneficiary of the Association CC&Rs with the ability to enforce all the obligations set forth therein, including, without limitation, the ability to cause any and all maintenance and repair obligations to be performed. Upon the formation of the Association and its acquisition of the common areas of the Improvements, the Association shall assume the Developer's obligations under this Section 403.

Specifically with respect to the Rental Units, the Developer shall submit for the reasonable approval of the Agency a "Management Plan" which sets forth in detail the Developer's property management duties, a tenant selection process and crime prevention program, the procedures for the collection of rent, the procedures for eviction of tenants, the rules and regulations of the Rental Units and manner of enforcement, a standard lease form, an Operating Budget, the identity of the manager of the Rental Units (the "Property Manager"), and other matters relevant to the management of the Rental Units. The management of the Rental Units shall be in compliance with the Management Plan which is approved by the Agency. The Agency hereby approves Kam Sang Company, Inc. or an Affiliate as the Property Manager for the Rental Units.

If the Agency determines that the performance of the Property Manager is deficient based upon the standards set forth in the Management Plan and in this Agreement, the Agency shall provide notice to the Developer of such deficiencies, and the Developer shall use its best efforts to correct such deficiencies. In the event that such deficiencies have not been cured within ninety (90) days of the date on which Agency provides such notice of deficiencies, the Agency shall have the right to require the Developer to immediately remove and replace the Property Manager with another property manager or property management company which is reasonably acceptable to the Agency, which is not related to or affiliated with the Developer, and which has not less than five (5) years experience in property management, including significant experience managing housing facilities of the size, quality and scope of the applicable Phase of the Rental Units.

404. Nondiscrimination Covenants. Developer herein covenants by and for itself, its successors and assigns, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the

immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.

All deeds, leases or contracts entered into by Developer relating to the Site shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) **In deeds**: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

(b) **In leases**: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

(c) **In contracts**: "There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

The foregoing covenants shall, without regard to technical classification and designation, be binding for the benefit and in favor of Agency, its successors and assigns, any occupants of the Site, and any successor in interest to the Site. The covenants against discrimination shall remain in effect in perpetuity. In no event shall anything in this Section 404 be construed as authority to lease Residential Units unless otherwise permitted herein.

405. Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction. The covenants and obligations established in this Agreement and the Grant Deeds shall, without regard to technical classification and designation survive the Closing, and be binding for the benefit and in favor of the Agency, its successors and assigns, as to those covenants which are for its benefit. The covenants contained in this Agreement shall remain in effect for the periods of time specified therein. The covenants against discrimination shall remain in effect in perpetuity. The Agency is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement and the covenants and obligations shall run in favor of the Agency, without regard to whether the Agency has been, remains or is an owner of any land or interest therein in the Site or in the Redevelopment Project Area. The Agency shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled. After issuance of a Release of Construction Covenants for the Improvements, all of the terms, covenants, agreements and conditions set forth in this Agreement relating to the construction and development of the Site shall cease and terminate.

500. RENTAL UNITS -- PROVISION OF MODERATE INCOME RENTAL HOUSING

501. Number of Affordable Rental Units. Pursuant to this Agreement and the Regulatory Agreement, the Developer covenants and agrees to make available, restrict occupancy to, and rent not less than one hundred twenty (120) Affordable Rental Units to Persons and Families of Low or Moderate Income at an Affordable Rent as follows:

(a) Seventy (70) of the one (1) bedroom Rental Units in Phase II to Persons and Families of Low or Moderate Income at an Affordable Rent.

(b) Forty (40) of the two (2) bedroom Rental Units in Phase II to Persons and Families of Low or Moderate Income at an Affordable Rent.

(c) Ten (10) of the three (3) bedroom Rental Units in Phase II to Persons and Families of Low or Moderate Income at an Affordable Rent.

502. Duration of Affordability Requirements. The Affordable Rental Units shall be subject to the requirements of this Agreement for fifty-five (55) years from the date of the City's issuance of a certificate of occupancy for the applicable Phase (the "Affordability Period").

503. Selection of Tenants. The Developer shall be responsible for the selection of tenants for the Affordable Rental Units in compliance with lawful and reasonable criteria, as set forth in the Regulatory Agreement and the Management Plan which is required to be submitted and approved by the Agency pursuant to Section 403.

504. Household Income Requirements. Following the initial lease-up of the Affordable Rental Units in Phase II, and annually thereafter, the Developer shall submit to the Agency, at the Developer's expense, a summary of the income, household size and rent payable by each of the tenants of the Affordable Rental Units of such Phase. At the Agency's request, the Developer shall also provide to the Agency completed income computation and certification forms, in a form reasonably acceptable to the Agency, for any such tenant or tenants. The Developer shall obtain, or shall cause to be obtained by the Property Manager, a certification from each household leasing a Affordable Rental Unit demonstrating that such household is/are Persons and Families of Low or Moderate Income, and meets the eligibility requirements established for the Affordable Rental Unit. The Developer shall verify, or shall cause to be verified by the Property Manager, the income certification of the household.

505. Affordable Rent. The maximum Monthly Rent chargeable for the Affordable Rental Units shall be annually determined in accordance with the following requirements. The Monthly Rent for the Affordable Rental Units to be rented to Persons and Families of Low or Moderate Incomes shall not exceed the amount set forth in Section 50093 of the California Health and Safety Code.

For purposes of this Agreement, "Monthly Rent" means the total of monthly payments charged to and paid by tenants for (a) use and occupancy of each Affordable Rental Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the Developer which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than the

Developer. In the event that all utility charges are paid by the landlord rather than the tenant, no utility allowance shall be deducted from the rent. "Monthly Rent" does not include optional payments by tenants for optional services provided by the Developer or the Property Manager.

506. Occupancy Limits. The maximum occupancy of the Affordable Rental Units shall not exceed more than such number of persons as is equal to the sum of the number of bedrooms in the unit, multiplied by two (2), plus one (1). For the two (2) bedroom units, the maximum occupancy shall not exceed five (5) persons. For the one (1) bedroom unit, the maximum occupancy shall not exceed three (3) persons.

507. Marketing Program. The Developer shall prepare and obtain Agency Director's approval, which approval shall not be unreasonably withheld, of a marketing program for the leasing of the Affordable Rental Units within each Phase (the "Marketing Program"). The leasing of the Affordable Rental Units shall be marketed in accordance with the approved Marketing Program as the same may be amended from time to time with Agency Director's prior written approval, which approval shall not unreasonably be withheld. The Developer shall provide the Agency with periodic reports with respect to the leasing of the Affordable Rental Units. The Developer shall be responsible to organize, schedule and coordinate a lottery drawing to select potential tenants for the Affordable Rental Units for initial lease-up only, which shall be open to the public. The lottery shall take place not less than 90 days prior to completion of the applicable Phase of the Affordable Rental Units. Preference in the lottery, so long as not inconsistent with federal and State law (including, without limitation, all fair housing laws, rules and regulations), shall be given as follows:

(1) Any persons who have been displaced from their residences due to programs or projects implemented by the Agency; and

(2) Other households who live or work in Garden Grove.

Subject to all fair housing laws, rules, and regulations, all categories shall receive preference in the order listed. The requirements of this Section 507 shall only apply to the extent that the number of applicants for Affordable Rental Units exceeds the number of Affordable Rental Units available for lease upon initial lease-up.

For the purpose of the lottery drawing, the lottery will be divided by those who have claimed a preference and those who do not. All lottery forms will be drawn and numbered to create a complete list of alternate applications.

The Developer shall provide written notification to lottery participants informing them of the results and their priority number. This priority number represents the order with which prospective tenants will be reviewed for final determination of eligibility. If a household who was selected claimed a preference but could not verify such preference, then that participant will be deemed ineligible and the next selected participant will be notified.

508. Monitoring and Recordkeeping. Throughout the Affordability Period, Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in Health and Safety Code Section 33418 and shall annually complete and submit to the Agency a report, prior to January 30th of each year, for the Affordable Rental Units which includes the name, address, income and age of each occupant of a Affordable Rental Unit, the bedroom count and Monthly Rent for such Affordable Rental Unit. Representatives of the Agency shall be entitled to enter the Rental Units,

upon at least seventy-two (72) hours prior written notice, to monitor compliance with this Agreement, to inspect the records, and to conduct an independent audit or inspection of such records. The Developer agrees to cooperate with the Agency in making the Rental Units available for such inspection or audit. The Developer agrees to maintain records in a businesslike manner, and to maintain such records for the term of this Agreement.

509. Regulatory Agreement and Notice of Affordability Restrictions. The requirements of this Agreement which are applicable to the Affordable Rental Units after the conveyance of the Site to the Developer are set forth in each Regulatory Agreement. Additionally, the Developer shall record a Notice of Affordability Restrictions on Transfer of Property ("Notice of Affordability Restrictions") as to each Phase of the Rental Units, which shall run with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor in interest who continues the violation pursuant thereto. The execution of a Regulatory Agreement and the Developer's execution of a Notice of Affordability Restrictions is a Condition Precedent to the Closing for each Phase, as set forth in Section 205. The Agency shall not subordinate this Agreement, each Regulatory Agreement and Notice of Affordability Restrictions to the construction and permanent financing approved pursuant to Section 311.1. Any such lender shall specifically subordinate its lien to the lien of each Regulatory Agreement and Notice of Affordability Restrictions.

510. Option to Increase Number of Affordable Rental Units. Not less than thirty (30) days prior to the Phase II Closing, the Developer may elect to increase the number of Affordable Rental Units from 60 to 120 in which case the Agency will pay to Developer the all cash sum of Six Million, Four Hundred Thousand Dollars ($6,400,000) at the Phase II Closing from its Housing Set Aside Fund for the purpose of providing funds sufficient to allow the Developer to provide the additional 60 Affordable Rental Units to Families of Low or Moderate Income at Affordable Rent. In the event of such election, Developer shall identify the Subphase in which the Affordable Rental Units will be located.

600. DEFAULTS, TERMINATION, AND REMEDIES

601. Default Remedies. Subject to any extensions of time of the deadlines for performance that may be permitted in accordance with Section 702 of this Agreement, failure by either Party to perform any action or covenant required by this Agreement, constitutes a "Breach" under this Agreement. A Party claiming a Breach shall give written Notice of Breach to the other Party specifying the Breach complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against the other Party, and the other Party shall not be in Default if such Party cures such Breach within thirty (30) days from receipt of such Notice, or if such Breach cannot reasonably be cured within such thirty (30) day period, if the other Party immediately, with due diligence, commences to cure, correct or remedy such failure or delay and completes such cure, correction or remedy with diligence, but in no event later than ninety (90) days after the date of receipt of the Notice. Failure to cure the Breach as described in the immediately preceding sentence is a "Default" hereunder.

602. Institution of Legal Actions. In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, either Party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any Breach, to recover damages for any Default, or to obtain any other remedy consistent with the

purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Orange, State of California.

603. Termination by the Developer Prior to the Conveyance. In the event that prior to the Conveyance of any Phase of the Site the Developer is not in Breach or Default of its obligations set forth in this Agreement and either (a) one or more of the Developer's Conditions Precedent is not fulfilled within the time set forth in the Schedule of Performance, or (b) the Agency is in Default of this Agreement, then this Agreement may, at the option of the Developer, be terminated by written Notice thereof to the Agency. From the date of the written Notice of termination of this Agreement by the Developer to the Agency and thereafter this Agreement shall be deemed terminated, and. Upon such a termination, there shall be no further rights or obligations between the Parties with respect to the Site by virtue of or with respect to this Agreement, except that (i) this Agreement shall remain in effect as to any Phases of the Site which have previously been conveyed to the Developer, and (ii) the Developer reserves all of its damages remedies in the event of a termination made pursuant to clause (b) above.

604. Termination by the Agency Prior to the Conveyance. In the event that prior to the Conveyance of any Phase of the Site the Agency is not in Breach or Default of its obligations set forth in this Agreement and either (a) one or more of the Agency's Conditions Precedent is not fulfilled within the time set forth in the Schedule of Performance, or (b) the Developer is in Default of this Agreement, then this Agreement may, at the option of the Agency, be terminated by the Agency by written Notice thereof to the Developer. From the date of the written Notice of termination of this Agreement by the Agency to the Developer and thereafter this Agreement shall be deemed terminated. Unless otherwise stated herein, upon such a termination, there shall be no further rights or obligations between the Parties, except that (i) this Agreement shall remain in effect as to any Phases of the Site which have previously been conveyed to the Developer, and (ii) the Agency reserves all of its damages remedies in the event of a termination made pursuant to clause (b) above.

605. Option to Acquire Site Upon Default. Developer agrees to enter into an Option Agreement, in substantially the form attached hereto as Attachment No. 10, which grants to Agency an option to purchase each Phase within the Site and the Improvements thereon in the event that the Developer (or its successors in interest) shall:

(a) fail to start the construction of the Improvements as required by this Agreement for a period of ninety (90) days after written notice thereof from the Agency; or

(b) abandon or substantially suspend construction of the Improvements required by this Agreement for a period of ninety (90) days after written notice thereof from the Agency; or

(c) contrary to the provisions of Section 703, transfer or suffer any involuntary transfer in violation of this Agreement, and such transfer has not been approved by the Agency or rescinded within thirty (30) days of notice thereof from Agency to Developer.

606. Acceptance of Service of Process. In the event that any legal action is commenced by the Developer against the Agency, service of process on the Agency shall be made by personal service upon the Agency's Director or in such other manner as may be provided by law. In the event that any legal action is commenced by the Agency against the Developer, service of process on the Developer shall be made in the manner required by law or, in the alternative, by personal service

upon any officer of the Developer so long as a copy of such service is delivered in accordance with Section 701 of this Agreement, and said service shall be effective whether made within or outside the State of California.

607. Rights and Remedies Are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

608. Inaction Not a Waiver of Default. Any failures or delays by either Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

609. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

610. Non-Liability of Officials and Employees of the Agency. No member, official or employee of the Agency or the City shall be personally liable to the Developer, or any successor in interest, in the event of any Default or breach by the Agency or for any amount which may become due to the Developer or its successors, or on any obligations under the terms of this Agreement.

611. Attorneys' Fees. In any action between the Parties to interpret, enforce, reform, modify, rescind, or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing Party in the action shall be entitled, in addition to damages, injunctive relief, or any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, litigation costs, expert witness fees and reasonable attorneys' fees.

700. GENERAL PROVISIONS

701. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice ("Notice") which either Party may desire to give to the other Party under this Agreement must be in writing and delivered either personally, by first class United States mail with postage prepaid, or by a national commercial delivery services (such as Federal Express) that provides a receipt verifying the date and time of delivery. Notices shall be directed to the address or addresses of the Party as set forth below, or to any other address or addresses as that Party may later designate by Notice delivered in accordance with this Section 701. Any delivered Notices shall be deemed effective upon actual receipt.

To Agency: Garden Grove Agency for Community Development
11222 Acacia Parkway
P.O. Box 3070
Garden Grove, California 92842
Attention: Director

Copy to: Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attention: Thomas P. Clark, Jr.

To Developer: New Age Brookhurst, LLC
411 E. Huntington Drive, Suite 305
Arcadia, California 91016
Attention: Mr. Ronnie Lam

Copy to: _____
_____, Suite _____
_____, California _____
Attention: _____

702. Force Majeure; Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in Breach, and all performance and other dates specified in this Agreement shall be extended, where a delay or Breach is due to causes beyond the control and without the fault of the Party claiming an extension of time to perform, which may include the following: war; acts of terrorism; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts or omissions of the other party; acts or failures to act of the City or any other public or governmental agency or entity, other than the acts or failures to act of the Agency which shall not excuse performance by the Agency ("Force Majeure")). Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the mutual agreement of Agency and Developer. Notwithstanding any provision of this Agreement to the contrary, the lack of funding to complete the Improvements, and/or lack of financial feasibility shall not constitute grounds of enforced delay pursuant to this Section 702.

703. Transfers of Interest in Site or Agreement.

703.1 Prohibition. The qualifications and identity of the Developer are of particular concern to the Agency. It is because of those qualifications and identity that the Agency has entered into this Agreement with the Developer. Furthermore, the parties acknowledge that the Agency has negotiated the terms of this Agreement in contemplation of the construction of the Improvements and the property tax increment revenues to be generated by the operation of the Improvements on the Site. Accordingly, for the period commencing upon the date of this Agreement and until the expiration of the Declaration of Uses, no changes in the owner of the Retail Improvements shall occur, and for the period commencing upon the date of this Agreement and until the issuance of the Release of Construction Covenants, no voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement, nor shall the Developer make any total or partial sale, transfer, conveyance, assignment, or lease of the whole or

any part of the Site or the Improvements thereon (collectively referred to herein as a "Transfer"), without the prior written approval of the Agency, except as expressly set forth herein.

703.2 Permitted Transfers. Notwithstanding any other provision of this Agreement to the contrary, Agency approval of a Transfer shall not be required in connection with any of the following:

(a) The conveyance or dedication of any portion of the Site to the City or other appropriate governmental agency, or the granting of easements or permits to facilitate construction of the Improvements.

(b) Any requested assignment for financing purposes (subject to such financing being considered and approved by the Agency pursuant to Section 311.1 herein), including the grant of a deed of trust to secure the funds necessary for land acquisition, construction and permanent financing of the Improvements, and further including the approved lender's acquisition of the Site by foreclosure or deed in lieu of foreclosure.

(c) The sale of completed For Sale Units to individual homebuyers or the lease of Rental Units or Retail Improvements all in the ordinary course of business.

(d) If Developer is a publicly held corporation, real estate investment trust or publicly held partnership, a Transfer of stock or other shares, provided there is no material change in the actual management and control of the Developer.

In the event of a Transfer by Developer under subparagraph (a) above not requiring the Agency's prior approval, Developer nevertheless agrees that prior to such Transfer it shall give written Notice to Agency of such assignment and satisfactory evidence that the assignee has assumed in writing through an assignment and assumption agreement all of the Developer's obligations set forth in this Agreement. Such assignment shall not, however, release the assigning Developer from any obligations to the Agency hereunder.

703.3 Agency Consideration of Requested Transfer. The Agency agrees that it will not unreasonably withhold, condition, or delay approval of a request for approval of a Transfer made pursuant to this Section 703 which requires the Agency's approval, provided the Developer delivers written Notice to the Agency requesting such approval. Such Notice shall be accompanied by evidence regarding the proposed transferee's development and/or operational qualifications and experience and its financial commitments and resources in sufficient detail to enable the Agency to evaluate the proposed assignee or purchaser pursuant to the criteria set forth in this Section 703 and as reasonably determined by the Agency. The Agency may, in considering any such request, take into consideration such factors as, without limitation, the transferee's experience and expertise, the transferee's past performance as developer or operator of similar developments, and the transferee's current financial condition and capabilities.

An assignment and assumption agreement in form reasonably satisfactory to the Agency's legal counsel shall also be required for all proposed Transfers requiring the Agency's approval hereunder. Within fifteen (15) days after the receipt of the Developer's written Notice requesting Agency approval of a Transfer pursuant to this Section 703, the Agency shall either approve or disapprove such proposed assignment or shall respond in writing by stating what further information, if any, the Agency reasonably requires in order to determine the request complete and determine

whether or not to grant the requested approval. Upon receipt of such a response, the Developer shall promptly furnish to the Agency such further information as may be reasonably requested and the Agency shall approve or disapprove the requested Transfer within fifteen (15) days after the receipt of such information. Upon the effective date of an assignment approved by the Agency, the assignor or transferor shall be released from all obligations to the Agency hereunder.

703.4 Successors and Assigns. All of the terms, covenants and conditions set forth in this Agreement shall be binding upon the Developer and its permitted successors and assigns. Whenever the term "Developer" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

703.5 Assignment by Agency. The Agency may assign or transfer any of its rights or obligations under this Agreement with the approval of the Developer, which approval shall not be unreasonably withheld; provided, however, that the Agency may assign or transfer any of its interests in the affordable housing covenants hereunder to the City at any time without the consent of the Developer.

704. Relationship Between Agency and Developer. It is hereby acknowledged that the relationship between the Agency and the Developer is not that of a partnership or joint venture and that the Agency and the Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein or in the Attachments hereto, the Agency shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Improvements.

705. Agency Approvals and Actions. The Agency shall maintain authority of this Agreement and the authority to implement this Agreement through the Agency Director (or his or her duly authorized representative). The Agency Director shall have the authority to make approvals, issue interpretations, waive provisions, sign documents and/or enter into certain amendments of this Agreement on behalf of the Agency so long as such actions do not materially or substantially change the uses or development permitted on the Site, or add to the costs incurred or to be incurred by the Agency as specified herein, and such approvals, interpretations, waivers and/or amendments may include extensions of time to perform as specified in the Schedule of Performance. All other material and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the Agency Board.

706. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by both Parties, shall constitute a binding agreement. This Agreement is executed in three (3) originals, each of which is deemed to be an original.

707. Integration. This Agreement contains the entire understanding between the Parties relating to the transaction contemplated by this Agreement, notwithstanding any previous negotiations or agreements between the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, including without limitation the Exclusive Negotiating Agreement, are merged in this Agreement and shall be of no further force or effect. Each Party is entering this Agreement based solely upon the representations set forth herein and upon each Party's own independent investigation of any and all facts such Party deems material. This Agreement includes Attachment Nos. 1 through 11, which are incorporated herein.

708. Real Estate Brokerage Commission. The Developer shall be responsible for any brokerage fees payable in connection with this transaction, which fees shall be included in the Site Acquisition Costs. The Agency and the Developer each represents that it has not engaged the services of any other finder or broker and that it is not liable for any other real estate commissions, broker's fees, or finder's fees which may accrue by reason of the acquisition and the conveyance of all or part of the Site, and agrees to hold harmless the other party from such commissions or fees as are alleged to be due from the Party making such representations.

709. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. Reference to section numbers are to sections in this Agreement, unless expressly stated otherwise.

710. Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both Parties.

711. No Waiver. A waiver by either Party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other Party must be in writing and executed by the waiving Party to be enforceable and no such waiver shall be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

712. Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each Party. The Agency agrees to reasonably consider making changes to this Agreement and entering into supplemental agreements which are proposed by the Developer's lender.

713. Severability. If any term, provision, condition or covenant of this Agreement or its application to a Party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

714. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

715. Legal Advice. Each Party represents and warrants to the other the following: it has carefully read this Agreement, and in signing this Agreement it does so with full knowledge of any right which it may have; it has received independent legal advice from its legal counsel as to the matters set forth in this Agreement, or has knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, it has freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party or its agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

716. Time of Essence. Time is expressly made of the essence with respect to the performance by the Agency and the Developer of each and every obligation and condition of this Agreement.

717. Cooperation. Each Party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement including, but not limited to, releases or additional agreements.

718. Conflicts of Interest. No member, official or employee of the Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

719. Time for Acceptance of Agreement by Agency. This Agreement, when executed by the Developer and delivered to the Agency, must be authorized, executed and delivered by the Agency on or before forty-five (45) days after signing and delivery of this Agreement by the Developer or this Agreement shall be void, except to the extent that the Developer shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement.

720. Estoppel Certificate. Each of the Parties shall at any time and from time to time upon not less than twenty (20) days prior notice by the other, execute, acknowledge and deliver to such other Party a statement in writing certifying that this Agreement is unmodified and is in full force and effect (or if there shall have been modifications that this Agreement is in full force and effect as modified and stating the modifications), and stating whether or not to the best knowledge of the signer of such certificate such other Party is in Breach or Default in performing or observing any provision of this Agreement, and, if in Breach or Default, specifying each such Breach or Default of which the signer may have knowledge, and such other matters as such other Party may reasonably request, it being intended that any such statement delivered by Developer may be relied upon by Agency or any successor in interest to Agency, and it being further intended that any such statement delivered by Agency may be relied upon by any prospective assignee of Developer's interest in this Agreement or any prospective mortgagee or encumbrancer thereof. Reliance on any such certificate may not extend to any Breach or Default as to which the signer of the certificate shall have had no actual knowledge. The Party requesting the Estoppel Certificate shall reimburse the other Party for all actual and direct third party costs incurred by such Party in connection with such Estoppel Certificate within ten (10) days after written demand therefor which notice shall contain all relevant invoices or other evidence of such costs.

721. No Third Party Beneficiaries. Except to the extent the City is given express rights hereunder, there are no third party beneficiaries of this Agreement.

IN WITNESS WHEREOF, the Agency and the Developer have executed this Disposition and Development Agreement to be effective as of the Date of Agreement first set forth above.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,
a public body, corporate and politic

By: _____
~~Chairman~~ Director

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Stradling Yocca Carlson & Rauth,
Agency General Counsel

DEVELOPER:

NEW AGE BROOKHURST, LLC., a California limited liability company

By: _____

By: Its Manager, Kam Sang Co., Inc.
Ronnie Lam, its President

ATTACHMENT NO. 1

LEGAL DESCRIPTION

Parcel A

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

That Portion Of The Southwest Quarter Of The Southwest Quarter Of Section 32, Township 4 South, Range 10 West, In The Rancho Las Bolsas, As Shown On A Map Recorded In Book 51, Page 10 Of Miscellaneous Maps, Records Of Orange County, California, Described As Follows:

Beginning At The Southwest Corner Of The North 5 Acres Of The West Half Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32; Thence North 0° 35' 50" West, Along The West Line Of Said North 5 Acres, A Distance Of 100.00 Feet; Thence North 89° 52' 10" East, Parallel With The South Line Of Said North 5 Acres, A Distance Of 36.14 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide, Said Point Being The "TRUE POINT OF BEGINNING-A (TPOB-A)" ; Thence North 89° 52' 10" East, Parallel With Said South Line Of North 5 Acres, A Distance Of 308.81 Feet To A Point On The West Right-Of-Way Of Brookhurst Street, 120 Feet Wide ; Thence South 33° 33' 43" East Along Said West Right-Of-Way Of Brookhurst Street, A Distance Of 418.60 Feet ; Thence South 56° 26' 17" West, A Distance Of 272.86 Feet ; Thence North 33° 33' 43" West Parallel To Said West Right-Of-Way Of Brookhurst Street, A Distance Of 250.53 Feet ; Thence South 89° 24' 10" West, A Distance Of 171.32 Feet To A Point On Said Easterly Right-Of-Way Of Brookhurst Way, 80' Wide ; Thence North 0° 35' 50" West, A Distance Of 292.00 Feet To The " TRUE POINT OF BEGINNING-A."

Containing total of 3.700 acres, more or less.

Parcel B

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

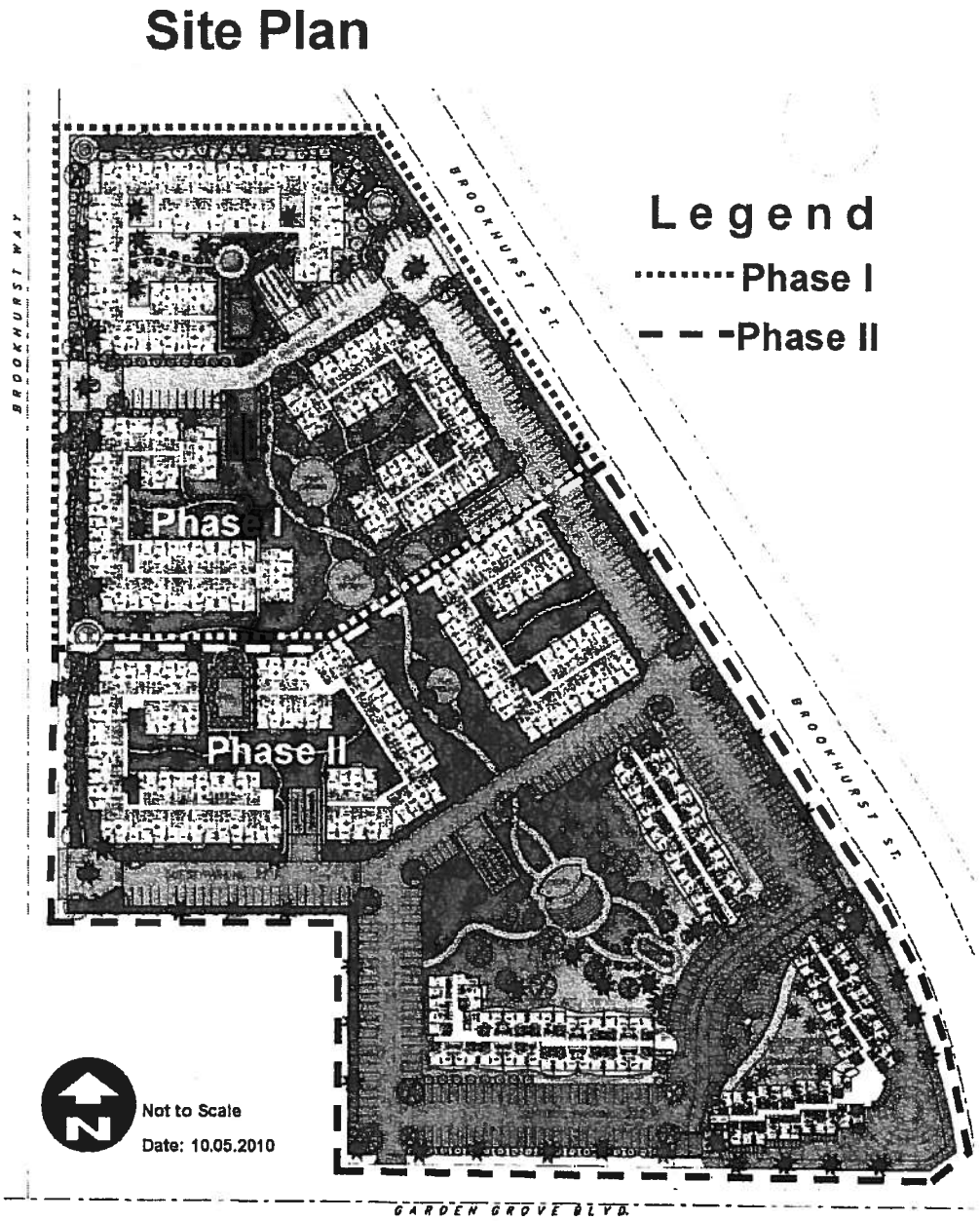
That Portion Of The Southwest Quarter Of The Southwest Quarter Of Section 32, Township 4 South, Range 10 West, In The Rancho Las Bolsas, As Shown On A Map Recorded In Book 51, Page 10 Of Miscellaneous Maps, Records Of Orange County, California, Described As Follows:

Beginning At The Southwest Corner Of The North 5 Acres Of The West Half Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32; Thence North 89° 52' 10" East, Along The South Line Of Said North 5 Acres, A Distance Of 36.49 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide ; Thence South 0° 35' 50" East, Along Said Easterly Right-Of-Way Of Brookhurst Way, A Distance Of 192.00 Feet To The "TRUE POINT OF BEGINNING-B (TPOB-B)" ; Thence North 89° 24' 10" East, A Distance Of 171.32 Feet ; Thence South 33° 33' 43" East Parallel To West Right-Of-Way Of Brookhurst Street, A Distance Of 250.53 Feet ; Thence North 56° 26' 17" East, A Distance Of 272.86 Feet To A Point On The Westerly Right-Of-Way Of Said Brookhurst Street, 120 Feet Wide ; Thence South 33° 33' 43" East Along Said Westerly Right-Of Way Of Brookhurst Street, A Distance Of 494.74 Feet To The Beginning Of A Curve, Concave To The West And Having A Radius Of 740.00 Feet ; Thence Southeasterly Along Said Curve, Through A Central Angle Of 22° 25' 30", An Arc Distance Of 289.63 Feet ; Thence South 39° 46' 16" West, A Distance Of 25.66 Feet To A Point On The Northerly Right-Of-Way Of Garden Grove Blvd., 100 Feet Wide, Thence South 89° 53' 57" West Along Said Northerly Right-Of-Way Of Garden Grove Blvd., A Distance Of 603.69 Feet To A Point On The Westerly Line Of The East Half Of The Southwest Quarter Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32 ; Thence North 0° 24' 30" West Along Said Westerly Line, A Distance Of 229.94 Feet ; Thence South 89° 54' 35" West, A Distance Of 292.91 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide ; Thence North 0° 35' 50" West, A Distance Of 525.89 Feet To The " TRUE POINT OF BEGINNING-B."

Containing total of 10.228 acres, more or less.

ATTACHMENT NO. 2

SITE MAP



ATTACHMENT NO. 2-1

ATTACHMENT NO. 3

RECORDING REQUESTED BY,
MAIL TAX STATEMENTS TO
AND WHEN RECORDED MAIL TO:

New Age Brookhurst, LLC
411 E. Huntington Drive, Suite 305
Arcadia, California 91006
Attention: Mr. Ronnie Lam

This document is exempt from payment of a recording fee pursuant to Government Code Section 27383.

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged,

The **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), hereby grants to **NEW AGE BROOKHURST, LLC.**, a California limited liability company ("Developer"), the real property hereinafter referred to as the "Phase ___ Site," as applicable, described in Exhibit A attached hereto and incorporated herein, subject to the following:

1. **Conveyance in Accordance With Disposition and Development Agreement.** The Site is conveyed in accordance with and subject to the provisions of the Disposition and Development Agreement entered into by and between Agency and Developer dated _____, 2010 (the "DDA"), a copy of which is on file with the Agency at its offices located at 11222 Acacia Parkway, Garden Grove, California 92840, as a public record and which is incorporated herein by reference. The DDA generally requires the Developer to construct and develop the Improvements, and to comply with all of the other requirements set forth therein. The covenants in the DDA shall run with the land and shall be binding upon the Developer and all of the successors and assigns of the Developer's right, title, and interest in and to any portion of the Site for the periods of time set forth therein. All the terms used herein, unless otherwise defined herein shall have the meaning as in the DDA.

2. **Nondiscrimination.** Developer herein covenants by and for itself, its successors and assigns, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.

All deeds, leases or contracts entered into by Developer relating to the Phase ___ Site shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status,

nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

(c) In contracts: "There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

(d) The foregoing covenants shall, without regard to technical classification and designation, be binding for the benefit and in favor of Agency, its successors and assigns, any occupants of the Phase ___ Site, and any successor in interest to the Phase ___ Site. The covenants against discrimination shall remain in effect in perpetuity. In no event shall anything in this Section 2 be construed as authority to lease Residential Units unless otherwise permitted herein.

3. Violations Do Not Impair Liens. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest permitted by the DDA; provided, however, that any subsequent owner of the Site shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

4. Covenants For Benefit of Agency Only. All covenants without regard to technical classification or designation shall be binding for the benefit of the Agency, and such covenants shall run in favor of the Agency for the entire period during which such covenants shall be in force and effect consistent with Paragraphs 2 and 3 hereof, without regard to whether the Agency is or remains an owner of any land or interest therein to which such covenants relate. The Agency, in the event of any breach of any such covenants, shall have the right to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach. The covenants contained in this Grant Deed, without regard to technical classification, shall not benefit or be enforceable by any owner of any other real property within or outside the Project Area, or any person or entity having any interest in any other such realty.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,
a public body, corporate and politic

By:_____

ATTEST:

_____
Secretary of the Agency

APPROVED AS TO FORM:

_____
Stradling Yocca Carlson & Rauth
Agency General Counsel

ACCEPTED BY DEVELOPER:

NEW AGE BROOKHURST, LLC., a California limited liability company

By: _____

By: _____

EXHIBIT A TO ATTACHMENT NO. 3

LEGAL DESCRIPTION OF SITE

[TO BE INSERTED]

ATTACHMENT NO. 4

SCOPE OF DEVELOPMENT

Unless otherwise specified herein, all capitalized terms in the Scope of Development shall have the meaning(s) set forth for the same Disposition and Development Agreement to which this Scope of Development is attached (DDA).

I. DEVELOPER OBLIGATIONS

A. PROJECT

The Project shall be a first-class mixed use commercial residential development and related parking, open space, landscape and hardscape improvements. The Project shall be consistent with the Redevelopment Plan and the approved PUD.

B. ARCHITECTURE AND DESIGN

1. The Developer shall develop construction plans and design documents shall be developed in compliance with the approved PUD for the Site and shall be consistent with the Conceptual Site Plan. The Residential Component shall include the use of high quality materials including the incorporation of glass, and stone building materials. Each Phase of the project will include architecture that is varied in modern and contemporary Architectural styles. Particular attention shall be paid to massing, scale, color, and materials in order to articulate the buildings elevations. The elevations shall be articulated to extent as possible, avoid flat or one-dimensional elevations. Architectural icon shall be incorporated at the corner of Garden Grove Boulevard and Brookhurst Street, which is a major focal point for the Project.

2. The Project shall have amenities including, but not limited to interior passive water feature, outdoor seating arrangements, decorative trellis shaded area, grassy recreational areas, common BBQ cooking facilities, landscaped meandering walks, urban walking trail along right-of-way on the perimeter of the property, exterior balconies for each unit, enhanced landscaped and paved entry, private streets with decorative paving accent areas, and water fountain in included in the open space program.

C. BUILDING SERVICE, PROJECT TRAFFIC AND MANAGEMENT

1. The Developer shall develop a building service, project traffic and management plan to be included in the Declaration. The Declaration shall specifically include without limitation, the following:

(a) A service plan that includes general times for deliveries, trash collection, street cleaning and the agreed upon routing for such service-vehicles. This plan shall include routing and stopping for patron drop-off and small service-vehicles including mail, overnight delivery and messengers as well as conference facility deliveries.

This plan shall also include routing and marked areas for emergency services.

(b) A traffic plan that includes the Developer's commitment to pay for traffic control officers at the entrances to the parking structures during holiday peak periods and for special events that are expected to generate large volumes of traffic.

(c) A maintenance and management plan that includes cleaning and refuse policing, no visibility into service areas from public streets, degreasing and deodorizing (particularly for the service, trash and garbage areas), re-stripping, re-painting, re-lighting, drainage cleaning, signage, graffiti management and security.

D. LANDSCAPING

All areas of the Site that are not used for buildings, sidewalks, driveways or other hardscape improvements shall be landscaped in accordance with a landscaping plan to be approved by the Agency. The Developer, at its sole cost and expense, shall be responsible for all these area. Landscaping shall consist of ground cover, trees, potted plants, and fountains, pools, or other water features, if applicable. A permanent automatic water sprinkler system shall be provided in all landscaped areas as required for adequate coverage/maintenance.

E. REFUSE

Refuse areas shall be provided in accordance with the requirements of the Land Use Approvals.

F. SIGNS

The Developer shall develop a sign program. The Project shall have a comprehensive graphics/logos and sign program that shall govern the entire Project; all signs shall conform as to location, size, shape, illumination system, cabinet and copy face colors, letter style, shall be complementary to the overall architectural theme, and comply with the high standards of Underwriter Laboratories. The sign program is to be approved by the Agency.

G. UTILITIES

The Developer shall be responsible for, adequate utilities and utility capacity, roadway and traffic improvements, traffic mitigation measures required by the City to accommodate the project and offsite landscape work to incorporate the proposed urban pedestrian trial on the outside public right-of-way perimeter on Garden Grove Boulevard, Brookhurst Way and Brookhurst Street.

The provision of water, sewer, gas, cable television, and electricity to the Agency Property, although the point of connection will be the responsibility of the Developer, regardless of whether of whether the point of connection is at the property line of the Agency Property or within the public right-of-way adjacent to the Agency Property.

The provision for roadway and traffic improvements and traffic mitigation measures required to accommodate the Project.

H. HOTEL COMPONENT ALTERNATIVE

Developer may, at its election, construct a Hotel Component with approximately one hundred (100) rooms. The Hotel Component shall include the use of high quality materials including the incorporation of glass, and stone building materials. Particular attention shall be paid to massing, scale, color, and materials in order to articulate the buildings elevations. The elevations shall be articulated to extent as possible, avoid flat or one-dimensional elevations. The Hotel Component shall be a Limited-Select Service Hotel such as Aloft Element, Hyatt Place, Hyatt Summerfield Suites, or Marriot Springhill Suites.

II. AGENCY OBLIGATIONS

1. Acquisition of the Site and relocation of all occupants of the Site in compliance with all applicable federal, state and local laws and regulations concerning displacement and relocation;

2. The demolition and removal of all existing structures and above ground improvements, in compliance with all applicable federal, state and local laws and regulations with respect to demolition and/or disposal and mitigation as described above; and

3. The vacation or abandonment of all existing utilities on the Site which would interfere with the proposed development, provided that the Developer agrees to grant easement rights which do not interfere with proposed buildings or which are required to serve the Project.

ATTACHMENT NO. 5

CONDENSED SCHEDULE OF PERFORMANCE

ITEM OF PERFORMANCE	TIME FOR PERFORMANCE
Initial consideration of DDA by the Agency Board.	Within thirty (30) days after Developer's delivery to the Agency of three (3) executed copies of this DDA.
Developer submits Deposit.	Prior to consideration of the DDA by the Agency.
Agency and Developer open Escrow.	Within ten (10) days after Agency and Developer execute DDA.
Developer completes its Site Investigation pursuant to Section 208.3.	On or before the Due Diligence Date.
Developer commences Construction Documents.	Within ninety (90) days after Agency approves DDA.
Developer presents Site Plan and Tentative Tract Map to the Planning Commission.	Within 180 days after Agency approves DDA.
Developer completes and submits Construction Documents.	Within 270 days after Agency approves DDA.
Developer to provide Agency evidence of Financing for Phase I Improvements.	Within 360 days after Agency approves DDA.
Developer presents Final Tract Map for Phase I Improvements to the City Council and Agency Board.	Within 270 days after Agency approves DDA.
Developer to provide evidence of insurance prior to the Close of Escrow	Prior to the Close of Escrow.
Close of Escrow.	On or before December 1, 2011.
Developer secures Permits and commences Construction on Phase I Improvements.	Within fifteen (15) days after Close of Escrow.
Developer completes the first building (80) units of the Phase I Improvements.	Within 455 days after Phase 1 Close of Escrow.
Developer to provide Agency evidence of Financing for Phase II , Subphase A Improvements.	The earlier to occur 470 days after Phase I Close of Escrow or one hundred eighty 180 days after completion of the first building of Phase 1
Phase II Close of Escrow.	On or before the earlier of September 1, 2013 or 570 days after the Phase 1 Closing.

ATTACHMENT NO. 6

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
New Age Brookhurst, LLC)
411 E. Huntington Drive, Suite 305)
Arcadia, California 91006)
Attention: Mr. Ronnie Lam)
)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

RELEASE OF CONSTRUCTION COVENANTS

THIS RELEASE OF CONSTRUCTION COVENANTS (the "Release") is made as of _____, 200_, by the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), in favor of **[DEVELOPER]**, a _____ (the "Developer"), as of the date set forth below.

RECITALS

A. The Agency and the Developer have entered into that certain Disposition and Development Agreement (the "DDA") dated _____, 2010 concerning the redevelopment of certain real property situated in the City of Garden Grove, California, as more fully described therein (the "Site").

B. As referenced in Section 310 of the DDA, the Agency is required to furnish the Developer or its successors with a Release of Construction Covenants upon completion of construction of the Improvements (as defined in Section 100 of the DDA) within the Site, which Release is required to be in such form as to permit it to be recorded in the Recorder's office of Orange County.

C. The Agency has determined that the construction and development of **[Specify Improvements]** has been satisfactorily completed on and with respect to that certain real property within the Site more fully described in Exhibit "A" attached hereto and made a part hereof (the "Site"). This Release is conclusive determination of satisfactory completion of the construction and development required by the DDA on and with respect to the **[Specify Improvements]**.

NOW, THEREFORE, the Agency hereby certifies as follows:

1. The **[Specify Improvements]** to be constructed by the Developer on and with respect to the Site have been fully and satisfactorily completed in conformance with the DDA free and clear of any claims and/or liens. Any operating requirements and all use, maintenance or nondiscrimination covenants contained in the DDA and other documents executed and recorded pursuant to the DDA shall remain in effect and enforceable according to their terms.

2. Nothing contained in this instrument shall modify in any other way any provisions of the DDA.

IN WITNESS WHEREOF, the Agency has executed this Release as of the date set forth above.

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,
a public body, corporate and politic

By: _____

Its: _____

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Stradling Yocca Carlson & Rauth
Agency General Counsel

APPROVED BY DEVELOPER:

NEW AGE BROOKHURST, LLC., a California limited liability company

By: _____

EXHIBIT A EXHIBIT A TO ATTACHMENT NO. 6

PROPERTY DESCRIPTION

Parcel A

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

That Portion Of The Southwest Quarter Of The Southwest Quarter Of Section 32, Township 4 South, Range 10 West, In The Rancho Las Bolsas, As Shown On A Map Recorded In Book 51, Page 10 Of Miscellaneous Maps, Records Of Orange County, California, Described As Follows:

Beginning At The Southwest Corner Of The North 5 Acres Of The West Half Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32; Thence North 0° 35' 50" West, Along The West Line Of Said North 5 Acres, A Distance Of 100.00 Feet; Thence North 89° 52' 10" East, Parallel With The South Line Of Said North 5 Acres, A Distance Of 36.14 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide, Said Point Being The "TRUE POINT OF BEGINNING-A (TPOB-A)" ; Thence North 89° 52' 10" East, Parallel With Said South Line Of North 5 Acres, A Distance Of 308.81 Feet To A Point On The West Right-Of-Way Of Brookhurst Street, 120 Feet Wide ; Thence South 33° 33' 43" East Along Said West Right-Of-Way Of Brookhurst Street, A Distance Of 418.60 Feet ; Thence South 56° 26' 17" West, A Distance Of 272.86 Feet ; Thence North 33° 33' 43" West Parallel To Said West Right-Of-Way Of Brookhurst Street, A Distance Of 250.53 Feet ; Thence South 89° 24' 10" West, A Distance Of 171.32 Feet To A Point On Said Easterly Right-Of-Way Of Brookhurst Way, 80' Wide ; Thence North 0° 35' 50" West, A Distance Of 292.00 Feet To The " TRUE POINT OF BEGINNING-A."

Containing total of 3.700 acres, more or less.

Parcel B

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

That Portion Of The Southwest Quarter Of The Southwest Quarter Of Section 32, Township 4 South, Range 10 West, In The Rancho Las Bolsas, As Shown On A Map Recorded In Book 51, Page 10 Of Miscellaneous Maps, Records Of Orange County, California, Described As Follows:

Beginning At The Southwest Corner Of The North 5 Acres Of The West Half Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32; Thence North 89° 52' 10" East, Along The South Line Of Said North 5 Acres, A Distance Of 36.49 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide ; Thence South 0° 35' 50" East, Along Said Easterly Right-Of-Way Of Brookhurst Way, A Distance Of 192.00 Feet To The "TRUE POINT OF BEGINNING-B (TPOB-B)" ; Thence North 89° 24' 10" East, A Distance Of 171.32 Feet ; Thence South 33° 33' 43" East Parallel To West Right-Of-Way Of Brookhurst Street, A Distance Of 250.53 Feet ; Thence North 56° 26' 17" East, A Distance Of 272.86 Feet To A Point On The Westerly Right-Of-Way Of Said Brookhurst Street, 120 Feet Wide ; Thence South 33° 33' 43" East Along Said Westerly Right-Of Way Of Brookhurst Street, A Distance Of 494.74 Feet To The Beginning Of A Curve, Concave To The West And Having A Radius Of 740.00 Feet ; Thence Southeasterly Along Said Curve, Through A Central Angle Of 22° 25' 30", An Arc Distance Of 289.63 Feet ; Thence South 39° 46' 16" West, A Distance Of 25.66 Feet To A Point On The Northerly Right-Of-Way Of Garden Grove Blvd., 100 Feet Wide, Thence South 89° 53' 57" West Along Said Northerly Right-Of-Way Of Garden Grove Blvd., A Distance Of 603.69 Feet To A Point On The Westerly Line Of The East Half Of The Southwest Quarter Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32 ; Thence North 0° 24' 30" West Along Said Westerly Line, A Distance Of 229.94 Feet ; Thence South 89° 54' 35" West, A Distance Of 292.91 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide ; Thence North 0° 35' 50" West, A Distance Of 525.89 Feet To The " TRUE POINT OF BEGINNING-B."

Containing total of 10.228 acres, more or less.

ATTACHMENT NO. 7

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
Garden Grove Agency for)
Community Development)
11222 Acacia Parkway)
Garden Grove, California 92840)
Attn: Director)
)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

DECLARATION OF USES

THIS DECLARATION OF USES (the "Declaration") is made as of _____, 200_, by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body corporate and politic (the "Agency"), and **NEW AGE BROOKHURST, LLC.**, a California limited liability company (the "Developer"), with reference to the following:

A. The Agency and the Developer have executed a Disposition and Development Agreement (the "Agreement"), dated as of _____, 2010, which provides for the development of retail improvements on certain real property located in the City of Garden Grove, County of Orange, State of California, more fully described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Retail Improvements"). The Agreement is available for public inspection and copying at the office of the Agency, 11222 Acacia Parkway, Garden Grove, California 92840. All of the terms, conditions, provisions and covenants of the Agreement are incorporated in this Declaration by reference as though written out at length herein. Capitalized terms used herein and not otherwise defined shall have the same meaning as set forth in Section 100 of the Agreement.

B. The Agreement provides for, among other things, the Developer's execution of this Declaration with respect to the retail improvements to be developed on the Retail Improvements (the "Retail Improvements").

NOW, THEREFORE, the Developer and the Agency hereby agree as follows:

1. **Use Covenant.** For a term commencing upon the date that the Agency issues a Release of Construction Covenants for the Retail Improvements, and ending upon the _____ anniversary thereof, the Developer hereby covenants and agrees that the Retail Improvements shall be used only for commercial retail uses, and Developer shall use good faith, commercially reasonable efforts to lease all of the Retail Improvements within the Retail Improvements to retail and commercial businesses.

2. **Prohibited Uses.** Without limitation upon the foregoing, no use or operation will be made, conducted or permitted on or with respect to all or any part of the Retail Improvements, which use or operation is obnoxious to, or out of harmony with, the development or operation of retail or commercial uses and facilities, including but not limited to, the following:

(a) any public or private nuisance, any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness, or any obnoxious odor;

(b) any excessive quantity of dust, dirt, or fly ash; provided, however, this prohibition shall not preclude the sale of soils, fertilizers, or other garden materials or building materials in containers if incident to the operation of a home improvement or general merchandise store;

(c) any fire, explosion or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks;

(d) any adult bookstore, adult entertainment establishment, or other establishment primarily selling or displaying sexually oriented materials;

(e) any distillation (except for a microbrewery associated with a restaurant use, or similar operation), refining, smelting, agriculture or mining operations;

(f) any mobilehome or trailer court, labor camp, junk yard, stock yard or animal raising;

(g) any drilling for and/or removal of subsurface substances; provided, however, that slant drilling is permitted so long as no drilling equipment is located upon the surface of the Property;

(h) any dumping of garbage or refuse, other than in enclosed receptacles intended for such purpose;

(i) any cemetery, mortuary or similar service establishment;

(j) any car washing establishment;

(k) any automobile body and fender repair work;

(l) any skating rink, bowling alley, teenage discotheque, discotheque, dance hall, pool room, massage parlor, off-track betting facility, casino, card club, bingo parlor or facility containing gaming equipment;

(m) any fire sale, flea market, bankruptcy sale (unless pursuant to a court order) or auction operation;

(n) any automobile, truck, trailer or recreational vehicle sales, leasing or display which is not entirely conducted inside of a building;

(o) any bar, tavern, restaurant or other establishment whose annual gross revenues from the sale of alcoholic beverages for on-premises consumption exceeds fifty percent (50%) of the gross revenues of such business, except for a microbrewery or wine bar associated with a restaurant use or similar operation;

(p) any school, training, educational or day care facility, including but not limited to: beauty schools, barber colleges, nursery schools, diet centers, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers;

(q) any church, synagogue, mosque or other place of worship;

(r) any apartment, home or other residential use; and

(s) any industrial use.

3. **Nuisances.** No noxious or offensive trade or activity shall be carried on within the Retail Improvements, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment by each of the owners of the neighboring property, or which shall in any way increase the rate of insurance for any other neighboring property. No uses shall violate the nuisance provisions of the Garden Grove Municipal Code.

4. **Unsightly Items.** All weeds, rubbish, debris or unsightly material or objects of any kind shall be regularly removed from the Retail Improvements, at the sole expense of the Developer and its tenants, and shall not be allowed to accumulate thereon. All refuse containers, trash cans, wood piles, storage areas, machinery and equipment shall be prohibited upon the Retail Improvements except in accordance with rules adopted by the parties to this Declaration.

5. **Mineral Exploration.** No oil development, oil refining, coring or mining operations of any kind shall be permitted upon or in the Retail Improvements, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of the Retail Improvements or within five hundred (500) feet below the surface of the Retail Improvements. No derrick or other structure designed for use in boring for water, oil, natural gas or other minerals hall be erected, maintained or permitted on the Retail Improvements.

6. **Compliance with Governmental Regulations.** Nothing herein contained shall be deemed or constitute approval of any use which is inconsistent with ordinances of the City of Garden Grove or the other provisions of this Declaration.

7. **Miscellaneous Provisions.**

a. If any provision of this Declaration or portion thereof, or the application to any person or circumstances, shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Declaration, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Declaration; and each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

b. This Declaration shall be construed in accordance with the laws of the State of California.

c. This Declaration shall be binding upon and inure to the benefit of the successors and assigns of the Developer and the Agency.

d. In the event action is instituted to enforce any of the provisions of this Declaration, the prevailing party in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorney's fees and costs.

8. Effect of Declaration. The covenants and agreements established in this Declaration shall, without regard to technical classification and designation, run with the land and be binding on each owner of the Retail Improvements and any successor in interest to the Retail Improvements, or any part thereof (including each parcel thereof), for the benefit of and in favor of the Agency, its successor and assigns, and the City of Garden Grove.

IN WITNESS WHEREOF, the parties hereto have executed this Declaration the day and year first hereinabove written.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

_____

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Stradling Yocca Carlson & Rauth,
Agency General Counsel

DEVELOPER:

NEW AGE BROOKHURST, LLC., a California limited liability company

By: _____

ATTACHMENT NO. 7-5

EXHIBIT A TO ATTACHMENT NO. 7

LEGAL DESCRIPTION OF SITE

Parcel A

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

That Portion Of The Southwest Quarter Of The Southwest Quarter Of Section 32, Township 4 South, Range 10 West, In The Rancho Las Bolsas, As Shown On A Map Recorded In Book 51, Page 10 Of Miscellaneous Maps, Records Of Orange County, California, Described As Follows:

Beginning At The Southwest Corner Of The North 5 Acres Of The West Half Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32; Thence North 0° 35' 50" West, Along The West Line Of Said North 5 Acres, A Distance Of 100.00 Feet; Thence North 89° 52' 10" East, Parallel With The South Line Of Said North 5 Acres, A Distance Of 36.14 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide, Said Point Being The "TRUE POINT OF BEGINNING-A (TPOB-A)" ; Thence North 89° 52' 10" East, Parallel With Said South Line Of North 5 Acres, A Distance Of 308.81 Feet To A Point On The West Right-Of-Way Of Brookhurst Street, 120 Feet Wide ; Thence South 33° 33' 43" East Along Said West Right-Of-Way Of Brookhurst Street, A Distance Of 418.60 Feet ; Thence South 56° 26' 17" West, A Distance Of 272.86 Feet ; Thence North 33° 33' 43" West Parallel To Said West Right-Of-Way Of Brookhurst Street, A Distance Of 250.53 Feet ; Thence South 89° 24' 10" West, A Distance Of 171.32 Feet To A Point On Said Easterly Right-Of-Way Of Brookhurst Way, 80' Wide ; Thence North 0° 35' 50" West, A Distance Of 292.00 Feet To The " TRUE POINT OF BEGINNING-A."

Containing total of 3.700 acres, more or less.

Parcel B

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

That Portion Of The Southwest Quarter Of The Southwest Quarter Of Section 32, Township 4 South, Range 10 West, In The Rancho Las Bolsas, As Shown On A Map Recorded In Book 51, Page 10 Of Miscellaneous Maps, Records Of Orange County, California, Described As Follows:

Beginning At The Southwest Corner Of The North 5 Acres Of The West Half Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32; Thence North 89° 52' 10" East, Along The South Line Of Said North 5 Acres, A Distance Of 36.49 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide ; Thence South 0° 35' 50" East, Along Said Easterly Right-Of-Way Of Brookhurst Way, A Distance Of 192.00 Feet To The "TRUE POINT OF BEGINNING-B (TPOB-B)" ; Thence North 89° 24' 10" East, A Distance Of 171.32 Feet ; Thence South 33° 33' 43" East Parallel To West Right-Of-Way Of Brookhurst Street, A Distance Of 250.53 Feet ; Thence North 56° 26' 17" East, A Distance Of 272.86 Feet To A Point On The Westerly Right-Of-Way Of Said Brookhurst Street, 120 Feet Wide ; Thence South 33° 33' 43" East Along Said Westerly Right-Of Way Of Brookhurst Street, A Distance Of 494.74 Feet To The Beginning Of A Curve, Concave To The West And Having A Radius Of 740.00 Feet ; Thence Southeasterly Along Said Curve, Through A Central Angle Of 22° 25' 30", An Arc Distance Of 289.63 Feet ; Thence South 39° 46' 16" West, A Distance Of 25.66 Feet To A Point On The Northerly Right-Of-Way Of Garden Grove Blvd., 100 Feet Wide, Thence South 89° 53' 57" West Along Said Northerly Right-Of-Way Of Garden Grove Blvd., A Distance Of 603.69 Feet To A Point On The Westerly Line Of The East Half Of The Southwest Quarter Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32 ; Thence North 0° 24' 30" West Along Said Westerly Line, A Distance Of 229.94 Feet ; Thence South 89° 54' 35" West, A Distance Of 292.91 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide ; Thence North 0° 35' 50" West, A Distance Of 525.89 Feet To The " TRUE POINT OF BEGINNING-B."

Containing total of 10.228 acres, more or less.

ATTACHMENT NO. 8

REGULATORY AGREEMENT

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
Garden Grove Agency for)
Community Development)
11222 Acacia Parkway)
Garden Grove, California 92840)
Attention: Agency Director)
)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT (the "Agreement") is entered into as of _____, 2010, by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body corporate and politic (the "Agency"), and **NEW AGE BROOKHURST, LLC.**, a California limited liability company (the "Developer").

RECITALS

A. Developer has acquired from the Agency certain real property located within the City of Garden Grove, as particularly described in the Legal Description attached hereto as Exhibit A, which is incorporated herein by reference (the "Site").

B. Developer desires to construct a multifamily affordable housing development, which will consist of a minimum of one hundred forty (140) units (the "Rental Units"), and to make available and rent not less than one hundred twenty (120) of the Rental Units to Moderate Income Households at Affordable Rent (the "Affordable Rental Units").

C. Developer and Agency have entered into a Disposition and Development Agreement (the "DDA") dated as of _____, 2010. Capitalized terms not defined herein shall have the meaning set forth in the DDA. Subject to the terms and conditions therein, the Developer has agreed to acquire the Site and construct and operate, among other things, the Affordable Rental Units and the Developer has agreed to make available and lease all of the Affordable Rental Units to Persons and Families of Low or Moderate Income, all at an Affordable Rent (as those terms are defined herein). The execution and recording of this Agreement is a requirement of the DDA.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Number of Affordable Rental Units.** The Developer covenants and agrees to make available, restrict occupancy to, and rent not less than one hundred twenty (120) Affordable Rental Units to Persons and Families of Low or Moderate Income at an Affordable Rent as follows:

(a) _____ (____) of the two (2) bedroom Rental Units in Phase I to Persons and Families of Low or Moderate Income at an Affordable Rent;

(b) _____ (____) of the one (1) bedroom Rental Units in Phase I to Persons and Families of Low or Moderate Income at an Affordable Rent;

(c) _____ (____) of the two (2) bedroom Rental Units in Phase II to Persons and Families of Low or Moderate Income at an Affordable Rent; and

(d) _____ (____) of the one (1) bedroom Rental Units in Phase II to Persons and Families of Low or Moderate Income at an Affordable Rent.

2. **Duration of Affordability Requirements.** The Affordable Rental Units shall be subject to the requirements of this Agreement for fifty-five (55) years from the date of the City's issuance of a certificate of occupancy for the applicable Phase.

3. **Selection of Tenants.** The Developer shall be responsible for the selection of tenants for the Affordable Rental Units in compliance with lawful and reasonable criteria, as set forth in the Regulatory Agreement and the Management Plan which is required to be submitted and approved by the Agency pursuant to Section 403.

4. **Household Income Requirements.** Following the initial lease-up of the Rental Units in each of Phase R-1 and Phase R-2, and annually thereafter, the Developer shall submit to the Agency, at the Developer's expense, a summary of the income, household size and rent payable by each of the tenants of the Rental Units of such Phase. At the Agency's request, the Developer shall also provide to the Agency completed income computation and certification forms, in a form reasonably acceptable to the Agency, for any such tenant or tenants. The Developer shall obtain, or shall cause to be obtained by the Property Manager, a certification from each household leasing a Rental Unit demonstrating that such household is/are Persons and Families of Low or Moderate Income, and meets the eligibility requirements established for the Affordable Rental Unit. The Developer shall verify, or shall cause to be verified by the Property Manager, the income certification of the household.

5. **Affordable Rent.** The maximum Monthly Rent chargeable for the Affordable Rental Units shall be annually determined in accordance with the following requirements. The Monthly Rent for the Affordable Rental Units to be rented to Persons and Families of Low or Moderate Incomes shall not exceed the amount set forth in Section 50093 of the California Health and Safety Code.

For purposes of this Agreement, "Monthly Rent" means the total of monthly payments charged to and paid by tenants for (a) use and occupancy of each Affordable Rental Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the Developer which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than the Developer. In the event that all utility charges are paid by the landlord rather than the tenant, no

utility allowance shall be deducted from the rent. "Monthly Rent" does not include optional payments by tenants for optional services provided by the Developer or the Property Manager.

6. **Occupancy Limits.** The maximum occupancy of the Affordable Rental Units shall not exceed more than such number of persons as is equal to the sum of the number of bedrooms in the unit, multiplied by two (2), plus one (1). For the two (2) bedroom units, the maximum occupancy shall not exceed five (5) persons. For the one (1) bedroom unit, the maximum occupancy shall not exceed three (3) persons.

7. **Marketing Program.** The Developer shall prepare and obtain Agency Director's approval, which approval shall not be unreasonably withheld, of a marketing program for the leasing of the Affordable Rental Units within each Phase (the "Marketing Program"). The leasing of the Affordable Rental Units shall be marketed in accordance with the approved Marketing Program as the same may be amended from time to time with Agency Director's prior written approval, which approval shall not unreasonably be withheld. The Developer shall provide the Agency with periodic reports with respect to the leasing of the Affordable Rental Units. The Developer shall be responsible to organize, schedule and coordinate a lottery drawing to select potential tenants for the Affordable Rental Units for initial lease-up only, which shall be open to the public. The lottery shall take place not less than 90 days prior to completion of the applicable Phase of the Affordable Rental Units. Preference in the lottery, so long as not inconsistent with federal and State law (including, without limitation, all fair housing laws, rules and regulations), shall be given as follows:

(1) Any persons who have been displaced from their residences due to programs or projects implemented by the Agency; and

(2) Other households who live or work in Garden Grove.

Subject to all fair housing laws, rules, and regulations, all categories shall receive preference in the order listed. The requirements of this Section 507 shall only apply to the extent that the number of applicants for Affordable Rental Units exceeds the number of Affordable Rental Units available for lease upon initial lease-up.

For the purpose of the lottery drawing, the lottery will be divided by those who have claimed a preference and those who do not. All lottery forms will be drawn and numbered to create a complete list of alternate applications.

The Developer shall provide written notification to lottery participants informing them of the results and their priority number. This priority number represents the order with which prospective tenants will be reviewed for final determination of eligibility. If a household who was selected claimed a preference but could not verify such preference, then that participant will be deemed ineligible and the next selected participant will be notified.

8. **Monitoring and Recordkeeping.** Throughout the Affordability Period, Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in Health and Safety Code Section 33418 and shall annually complete and submit to the Agency a report, prior to January 30th of each year, for the Affordable Rental Units which includes the name, address, income and age of each occupant of a Affordable Rental Unit, the bedroom count and Monthly Rent for such Affordable Rental Unit. Representatives of the Agency shall be entitled to enter the Rental Units, upon at least seventy-two (72) hours prior written notice, to monitor compliance with this

Agreement, to inspect the records, and to conduct an independent audit or inspection of such records. The Developer agrees to cooperate with the Agency in making the Rental Units available for such inspection or audit. The Developer agrees to maintain records in a businesslike manner, and to maintain such records for the term of this Agreement.

9. Successors and Assigns. This Agreement shall run with the land, and all of the terms, covenants and conditions of this Agreement shall be binding upon the Developer and the Agency and the permitted successors and assigns of the Developer and the Agency. Whenever the term "Developer," or "Agency" is used in this Agreement, such term shall include any other successors and assigns as herein provided.

10. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Agency and its successors and assigns, and Developer and its successors and assigns, and no other person or persons shall have any right of action hereon.

11. Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

12. Governing Law. This Agreement and the documents and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto.

13. Amendment. This Agreement may not be changed orally, but only by agreement in writing signed by Developer and the Agency.

14. Definitions. Any word, term or phrase not specifically defined in this Agreement shall have the same meaning as ascribed to it in the DDA.

[Signature block begins on follow page.]

ATTACHMENT NO. 9

NOTICE OF AFFORDABILITY RESTRICTION

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
Garden Grove Agency for)
Community Development)
11222 Acacia Parkway)
Garden Grove, California 92840)
Attn: Director)
)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY

This NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY (or "Notice of Affordability Restrictions") is executed and recorded pursuant to Section 33334.3(f)(3)(B) of the California Health & Safety Code as amended by AB 987, Chapter 690, Statutes of 2007 (herein, "Chapter 690"), and affects that certain real property generally located at _____ in the City of Garden Grove, California ("City") as legally described in Exhibit A hereto ("Property"). The GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body corporate and politic ("Agency"), and NEW AGE BROOKHURST, LLC. ("Developer") have entered into that certain DISPOSITION AND DEVELOPMENT AGREEMENT dated as of _____, 20___ ("DDA") and have entered into that certain REGULATORY AGREEMENT as of _____, 20____ ("Regulatory Agreement"). Capitalized terms not defined herein shall have the meaning set forth in the DDA.

1. The Regulatory Agreement provides for affordability restrictions and restrictions on the transfer of the Property, as more particularly set forth in the Regulatory Agreement. A copy of the Regulatory Agreement is on file with Agency as a public record and is deemed incorporated herein. Reference is made

to the Regulatory Agreement with regard to the complete text of the provisions of such agreement and all defined terms therein, which provides for affordability restrictions and restrictions on the transfer of the Site.

2. The Regulatory Agreement generally provides for the Developer to construct and operate not less than one twenty (120) Affordable Rental Units for rent to Moderate Income Households at Affordable Rents for a period commencing upon the date on which certificates of occupancy are granted for the Affordable Rental Unit and terminating on the fifty-fifth (55th) anniversary thereof.

3. Section 500 of the DDA provides as follows:

"501. Number of Affordable Rental Units. Pursuant to this Agreement and the Regulatory Agreement, the Developer covenants and agrees to make available, restrict occupancy to, and rent not less than one hundred twenty (120) Affordable Rental Units to Persons and Families of Low or Moderate Income at an Affordable Rent as follows:

(a) Seventy (70) of the one (1) bedroom Rental Units in Phase II to Persons and Families of Low or Moderate Income at an Affordable Rent.

(b) Forty (40) of the two (2) bedroom Rental Units in Phase II to Persons and Families of Low or Moderate Income at an Affordable Rent.

(c) Ten (10) of the three (3) bedroom Rental Units in Phase II to Persons and Families of Low or Moderate Income at an Affordable Rent.

"502. Duration of Affordability Requirements. The Affordable Rental Units shall be subject to the requirements of this Agreement for fifty-five (55) years from the date of the City's issuance of a certificate of occupancy for the applicable Phase (the "Affordability Period").

"503. Selection of Tenants. The Developer shall be responsible for the selection of tenants for the Affordable Rental Units in compliance with lawful and reasonable criteria, as set forth in the Regulatory Agreement and the Management Plan which is required to be submitted and approved by the Agency pursuant to Section 403.

"504. Household Income Requirements. Following the initial lease-up of the Affordable Rental Units in each of Phase I and Phase II, and annually thereafter, the Developer shall submit to the Agency, at the Developer's expense, a summary of the income, household size and rent payable by each of the tenants of the Affordable Rental Units of such Phase. At the Agency's request, the Developer shall also provide to the Agency completed income computation and certification forms, in a form reasonably acceptable to the Agency, for any such tenant or tenants. The Developer shall obtain, or shall cause to be obtained by the Property Manager, a certification from each household leasing a Affordable Rental Unit demonstrating that such household is/are Persons and Families of Low or Moderate Income, and meets the eligibility requirements established for the Affordable Rental Unit. The Developer shall verify, or shall cause to be verified by the Property Manager, the income certification of the household.

"505. Affordable Rent. The maximum Monthly Rent chargeable for the Affordable Rental Units shall be annually determined in accordance with the following requirements. The Monthly Rent for the Affordable Rental Units to be rented to Persons and Families of Low or Moderate Incomes shall not exceed the amount set forth in Section 50093 of the California Health and Safety Code.

For purposes of this Agreement, "Monthly Rent" means the total of monthly payments charged to and paid by tenants for (a) use and occupancy of each Affordable Rental Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the Developer which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than the Developer. In the event that all utility charges are paid by the landlord rather than the tenant, no utility allowance shall be deducted from the rent. "Monthly Rent" does not include optional payments by tenants for optional services provided by the Developer or the Property Manager.

"506. Occupancy Limits. The maximum occupancy of the Affordable Rental Units shall not exceed more than such number of persons as is equal to the sum of the number of bedrooms in the unit, multiplied by two (2), plus one (1). For the two (2) bedroom units, the maximum occupancy shall not

exceed five (5) persons. For the one (1) bedroom unit, the maximum occupancy shall not exceed three (3) persons.

"507. Marketing Program. The Developer shall prepare and obtain Agency Director's approval, which approval shall not be unreasonably withheld, of a marketing program for the leasing of the Affordable Rental Units within each Phase (the "Marketing Program"). The leasing of the Affordable Rental Units shall be marketed in accordance with the approved Marketing Program as the same may be amended from time to time with Agency Director's prior written approval, which approval shall not unreasonably be withheld. The Developer shall provide the Agency with periodic reports with respect to the leasing of the Affordable Rental Units. The Developer shall be responsible to organize, schedule and coordinate a lottery drawing to select potential tenants for the Affordable Rental Units for initial lease-up only, which shall be open to the public. The lottery shall take place not less than 90 days prior to completion of the applicable Phase of the Affordable Rental Units. Preference in the lottery, so long as not inconsistent with federal and State law (including, without limitation, all fair housing laws, rules and regulations), shall be given as follows:

(1) Any persons who have been displaced from their residences due to programs or projects implemented by the Agency; and

(2) Other households who live or work in Garden Grove.

Subject to all fair housing laws, rules, and regulations, all categories shall receive preference in the order listed. The requirements of this Section 507 shall only apply to the extent that the number of applicants for Affordable Rental Units exceeds the number of Affordable Rental Units available for lease upon initial lease-up.

For the purpose of the lottery drawing, the lottery will be divided by those who have claimed a preference and those who do not. All lottery forms will be drawn and numbered to create a complete list of alternate applications.

The Developer shall provide written notification to lottery participants informing them of the results and their priority number. This priority number represents the order with which prospective tenants will be reviewed for final determination of eligibility. If a household who was selected claimed a preference but could not verify such preference, then that participant will be deemed ineligible and the next selected participant will be notified.

"508. Monitoring and Recordkeeping. Throughout the Affordability Period, Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in Health and Safety Code Section 33418 and shall annually complete and submit to the Agency a report, prior to January 30th of each year, for the Affordable Rental Units which includes the name, address, income and age of each occupant of a Affordable Rental Unit, the bedroom count and Monthly Rent for such Affordable Rental Unit. Representatives of the Agency shall be entitled to enter the Rental Units, upon at least seventy-two (72) hours prior written notice, to monitor compliance with this Agreement, to inspect the records, and to conduct an independent audit or inspection of such records. The Developer agrees to cooperate with the Agency in making the Rental Units available for such inspection or audit. The Developer agrees to maintain records in a businesslike manner, and to maintain such records for the term of this Agreement.

"509. Regulatory Agreement and Notice of Affordability Restrictions. The requirements of this Agreement which are applicable to the Affordable Rental Units after the conveyance of the Site to the Developer are set forth in each Regulatory Agreement. Additionally, the Developer shall record a Notice of Affordability Restrictions on Transfer of Property ("Notice of Affordability Restrictions") as to each Phase of the Rental Units, which shall run with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor in interest who continues the violation pursuant thereto. The execution of a Regulatory Agreement and the Developer's execution of a Notice of Affordability Restrictions is a Condition Precedent to the Closing for each Phase, as set forth in Section 205. The Agency shall subordinate this Agreement, each Regulatory Agreement and Notice of Affordability Restrictions to the construction and permanent financing approved pursuant to Section 311.1 by the execution of a subordination agreement in a form determined to be reasonably acceptable to the Executive Director."

[Signature block begins on follow page.]

HOMEBUYER:

By:_____

Printed Name:_____

By:_____

Printed Name:_____

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,
a public body, corporate and politic

By: _____
Chairman

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Stradling Yocca Carlson & Rauth,
Agency General Counsel

EXHIBIT A EXHIBIT A TO ATTACHMENT 9

LEGAL DESCRIPTION

Parcel A

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

That Portion Of The Southwest Quarter Of The Southwest Quarter Of Section 32, Township 4 South, Range 10 West, In The Rancho Las Bolsas, As Shown On A Map Recorded In Book 51, Page 10 Of Miscellaneous Maps, Records Of Orange County, California, Described As Follows:

Beginning At The Southwest Corner Of The North 5 Acres Of The West Half Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32; Thence North 0° 35' 50" West, Along The West Line Of Said North 5 Acres, A Distance Of 100.00 Feet; Thence North 89° 52' 10" East, Parallel With The South Line Of Said North 5 Acres, A Distance Of 36.14 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide, Said Point Being The "TRUE POINT OF BEGINNING-A (TPOB-A)" ; Thence North 89° 52' 10" East, Parallel With Said South Line Of North 5 Acres, A Distance Of 308.81 Feet To A Point On The West Right-Of-Way Of Brookhurst Street, 120 Feet Wide ; Thence South 33° 33' 43" East Along Said West Right-Of-Way Of Brookhurst Street, A Distance Of 418.60 Feet ; Thence South 56° 26' 17" West, A Distance Of 272.86 Feet ; Thence North 33° 33' 43" West Parallel To Said West Right-Of-Way Of Brookhurst Street, A Distance Of 250.53 Feet ; Thence South 89° 24' 10" West, A Distance Of 171.32 Feet To A Point On Said Easterly Right-Of-Way Of Brookhurst Way, 80' Wide ; Thence North 0° 35' 50" West, A Distance Of 292.00 Feet To The " TRUE POINT OF BEGINNING-A."

Containing total of 3.700 acres, more or less.

Parcel B

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

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Beginning At The Southwest Corner Of The North 5 Acres Of The West Half Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32; Thence North 89° 52' 10" East, Along The South Line Of Said North 5 Acres, A Distance Of 36.49 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide ; Thence South 0° 35' 50" East, Along Said Easterly Right-Of-Way Of Brookhurst Way, A Distance Of 192.00 Feet To The "TRUE POINT OF BEGINNING-B (TPOB-B)" ; Thence North 89° 24' 10" East, A Distance Of 171.32 Feet ; Thence South 33° 33' 43" East Parallel To West Right-Of-Way Of Brookhurst Street, A Distance Of 250.53 Feet ; Thence North 56° 26' 17" East, A Distance Of 272.86 Feet To A Point On The Westerly Right-Of-Way Of Said Brookhurst Street, 120 Feet Wide ; Thence South 33° 33' 43" East Along Said Westerly Right-Of Way Of Brookhurst Street, A Distance Of 494.74 Feet To The Beginning Of A Curve, Concave To The West And Having A Radius Of 740.00 Feet ; Thence Southeasterly Along Said Curve, Through A Central Angle Of 22° 25' 30", An Arc Distance Of 289.63 Feet ; Thence South 39° 46' 16" West, A Distance Of 25.66 Feet To A Point On The Northerly Right-Of-Way Of Garden Grove Blvd., 100 Feet Wide, Thence South 89° 53' 57" West Along Said Northerly Right-Of-Way Of Garden Grove Blvd., A Distance Of 603.69 Feet To A Point On The Westerly Line Of The East Half Of The Southwest Quarter Of The Southwest Quarter Of The Southwest Quarter Of Said Section 32 ; Thence North 0° 24' 30" West Along Said Westerly Line, A Distance Of 229.94 Feet ; Thence South 89° 54' 35" West, A Distance Of 292.91 Feet To A Point On The Easterly Right-Of-Way Of Brookhurst Way, 80 Feet Wide ; Thence North 0° 35' 50" West, A Distance Of 525.89 Feet To The " TRUE POINT OF BEGINNING-B."

Containing total of 10.228 acres, more or less.

ATTACHMENT NO. 10

OPTION AGREEMENT

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
Garden Grove Agency for)
Community Development)
11222 Acacia Parkway)
Garden Grove, California 92840)
Attn: Executive Director)
)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

OPTION AGREEMENT

This **OPTION AGREEMENT** is entered into as of _____, 200__, by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), and **NEW AGE BROOKHURST, LLC.**, a California limited liability company ("Developer").

RECITALS

A. Developer and Agency have executed a Disposition and Development Agreement (the "DDA"), dated as of _____, 2010, pursuant to which Developer has purchased that certain approximately _____ acres of real property in the City of Garden Grove known as the "Brookhurst Triangle," which is bounded by Brookhurst Street on the east, Garden Grove Boulevard on the south, and Brookhurst Way on the northern and western edge, more particularly described in Exhibit "A" attached hereto and incorporated herein (the "["Phase _____ Site"]).

B. Pursuant to Section 505 of the DDA, the Developer has agreed to grant to Agency an option to repurchase the Site or any parcel within the Site upon the occurrence of certain events, as set forth therein.

C. Developer desires to grant to Agency an option to purchase the ["Phase _____ Site"], on the terms and conditions set forth hereinbelow. For purposes of this Option Agreement, ["Phase _____ Site"], shall also be deemed to include any and all improvements located on the real property.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and conditions contained herein, the parties hereto agree as follows:

1. Grant of Option. Developer grants to Agency an option ("Option") to purchase the ["Phase _____ Site"], on the terms and conditions set forth in this Option Agreement. The purchase price payable by Agency to the Developer for the ["Phase _____ Site"], shall be the Purchase Price for the ["Phase _____ Site"], under the DDA, plus the fair market value of the Improvements on the ["Phase _____ Site"], as of the date of the Exercise Notice ("Option Price"). The agreed fair market

value of the Improvements shall be reflected in a memorandum signed by Developer and Agency. In the event Developer and Agency are unable to agree on the fair market value of the Improvements on the ["Phase _____ Site"], within ten (10) days of delivery of the Exercise Notice, the fair market value of the Improvements on the ["Phase _____ Site"], shall be determined by appraisal, as follows: If Developer and Agency cannot agree to the fair market value, each party shall immediately retain, at its expense, an MAI appraiser to appraise the fair market value of the Improvements on the ["Phase _____ Site"]. Each party shall be advised promptly of the appraiser selected by the other, and each shall receive a written and signed copy of the other's appraisal report. The average of the two appraisals of fair market value shall become fair market value; provided, however, if the difference between the two appraisals exceed 10% of the lower appraisal the two appraisers shall immediately select a third MAI appraiser and in the event of their failure to do so, the presiding judge of the Superior Court of Orange County shall upon request of either party appoint the third appraiser. Any valuation then agreed upon by a majority of the three appraisers shall be accepted as final and conclusive between the parties hereto and by any court of competent jurisdiction and shall become the fair market value for the Improvements on the ["Phase _____ Site"]. Should a majority of the three appraisers not be able to agree upon the fair market value, then the average of the three appraisers' reports shall become the fair market value for the ["Phase _____ Site"], or applicable parcel and be binding and conclusive upon the parties. Each party will receive a written and signed copy of the third appraiser's report. The expenses and cost of the third appraiser and any cost incurred to obtain said third appraisal shall be divided equally between Developer and Agency.

2. **Term and Consideration for Option.** The term of the Option ("Option Term") shall commence on the date of this Option Agreement, and shall expire upon the recordation of a Release Of Construction Covenants with respect to the ["Phase _____ Site"].

3. **Exercise of Option.** The Option may be exercised by Agency's delivery to Developer of written notice of such exercise ("Exercise Notice") only upon the occurrence of any of the following defaults of the DDA ("Exercise Events"):

(a) Developer shall fail to start the construction of the Improvements as required by the DDA for a period of ninety (90) days after written notice thereof from the Agency; or

(b) Developer shall abandon or substantially suspend construction of the Improvements required by the DDA for a period of ninety (90) days after written notice thereof from the Agency; or

(c) Developer shall, contrary to the provisions of Section 703 of the DDA, transfer or suffer any involuntary transfer in violation of the DDA, and such transfer has not been approved by the Agency or rescinded within thirty (30) days of notice thereof from Agency to Developer.

In the event that Agency exercises the Option, but the Developer cures the default of the DDA prior to the sale of the ["Phase _____ Site"], or applicable parcel to Agency, Agency's exercise of the Option shall be deemed revoked. The revocation of the exercise of the Option shall not terminate this Option Agreement or preclude Agency from subsequently exercising the Option upon a later occurrence of one or more of the Exercise Events.

4. **Escrow and Completion of Sale.** Within five (5) days after Agency has exercised the Option, or as soon thereafter as reasonably practicable, an escrow shall be opened with an escrow

company mutually acceptable to Agency and Developer for the conveyance of the ["Phase _____ Site"], to Agency. Agency shall deposit the Option Price in escrow not later than one (1) business day prior to the anticipated close of escrow date. Agency's obligation to close escrow shall be subject to Agency's approval of a then-current preliminary title report and, at Agency's option, environmental and other site testing. Any exceptions shown on such preliminary title report created on or after the Developer's acquisition of the ["Phase _____ Site"], shall be removed by Developer at its sole expense prior to the close of escrow pursuant to this Section 4 unless such exception(s) is(are) accepted by Agency in its reasonable discretion; provided, however, that Agency shall accept the following exceptions to title: (i) current taxes not yet delinquent, (ii) matters affecting title existing on the date of Developer's acquisition of the ["Phase _____ Site"], (iii) liens and encumbrances in favor of the City of Garden Grove, and (iv) matters shown as printed exceptions in the standard form ALTA owner's policy of title insurance. The parties shall each be responsible for one-half of the escrow fees, documentary transfer taxes, recording fees and any other costs and expenses of the escrow, and the Developer shall be responsible for the cost of a ALTA owner's policy of title insurance to be provided to the Agency. Agency shall have thirty (30) days after exercise of the Option to enter upon the ["Phase _____ Site"], to conduct any tests, inspections, investigations, or studies of the condition of the ["Phase _____ Site"]. Developer shall permit Agency access to the ["Phase _____ Site"], for such purposes. Agency shall indemnify, defend, and hold harmless Developer and its officers, directors, shareholders, partners, employees, agents, and representatives from and against all claims, liabilities, or damages, and including expert witness fees and reasonable attorney's fees and costs, caused by Agency's activities with respect to or arising out of such testing, inspection, or investigatory activity on the ["Phase _____ Site"]. Escrow shall close promptly after acceptance by Agency of the condition of title and the Physical and Environmental Condition of the ["Phase _____ Site"]. Until the Closing, the terms of the DDA and the documents executed and recorded pursuant thereto shall remain in full force and effect.

5. **Failure to Exercise Option.** If the Option is not exercised in the manner provided in Section 3 above before the expiration of the Option Term, the Option shall terminate. Upon receipt of the written request of Developer, Agency shall cause a quitclaim deed terminating or releasing any and all rights Agency may have to acquire the ["Phase _____ Site"], ("Quitclaim Deed") to be recorded in the Official Records of Orange, California.

6. **Assignment and Nomination.** Agency shall not assign its interest hereunder without the approval of the Developer, which may be given or withheld in Developer's sole and absolute discretion; provided that Agency may nominate another person or entity to acquire the ["Phase _____ Site"], and the identity of such nominee shall not be subject to the approval of the Developer.

7. **Title.** Following the date hereof, except as permitted by the DDA, Developer agrees not to cause, and shall use commercially reasonable efforts not to permit, any lien, easement, encumbrance or other exception to title to be recorded against the ["Phase _____ Site"], without Agency's prior written approval, such approval not to be unreasonably withheld.

8. **Representations and Warranties of Developer.** Developer hereby represents, warrants and covenants to Agency as follows, which representations and warranties shall survive the exercise of the Option and the Close of Escrow:

(a) that this Option Agreement and the other documents to be executed by Developer hereunder, upon execution and delivery thereof by Developer, will have been duly entered into by Developer, and will constitute legal, valid and binding obligations of Developer;

(b) neither this Option Agreement, nor anything provided to be done under this Option Agreement, violates or shall violate any contract, document, understanding, agreement or instrument to which Developer is a party or by which it is bound; and

(c) Developer shall pay, prior to delinquency, any and all real property taxes and assessments which affect the ["Phase _____ Site"].

Developer agrees to indemnify, protect, defend, and hold Agency and the City of Garden Grove harmless from and against any damage, claim, liability, or expense of any kind whatsoever (including, without limitation, reasonable attorneys' fees and fees of expert witnesses) arising from or in connection with any breach of the foregoing representations, warranties and covenants. Such representations and warranties of Developer, shall be true and correct on and as of the date of this Option Agreement and on and as of the date of the Close of Escrow.

9. Representations and Warranties of Agency. Agency hereby represents and warrants and covenants to Developer, as follows, which representations and warranties shall survive the Close of Escrow:

(a) that this Option Agreement and the other documents to be executed by Agency hereunder, upon execution and delivery thereof by Agency, will have been duly entered into by Agency, and will constitute legal, valid and binding obligations of Agency, and

(b) neither this Option Agreement, nor anything provided to be done under this Option Agreement, violates or shall violate any contract, document, understanding, agreement or instrument to which Agency is a party or by which it is bound.

Agency agrees to indemnify, protect, defend, and hold Developer and the Site harmless from and against any damage, claim, liability, or expense of any kind whatsoever (including, without limitation, reasonable attorneys' fees and fees of expert witnesses) arising from or in connection with any breach of the foregoing representations, warranties and covenants. Such representations and warranties of Agency, and any other representations and warranties of Agency contained elsewhere in this Option Agreement shall be true and correct on and as of the date of this Option Agreement and on and as of the date of the Close of Escrow.

10. General Provisions.

10.1 Paragraph Headings. The paragraph headings used in this Option Agreement are for purposes of convenience only. They shall not be construed to limit or extend the meaning of any part of this Option Agreement.

10.2 Notices. Any notice, demand, approval, consent, or other communication required or desired to be given under this Option Agreement shall be in writing and shall be either personally served, sent by telecopy, mailed in the United States mails, certified, return receipt requested, postage prepaid, or sent by other commercially acceptable means, addressed to the party to be served with the copies indicated below, at the last address given by that party to the other under the provisions of this section. All communications shall be deemed delivered at the earlier of actual receipt, the next business day after deposit with Federal Express or other overnight delivery service or two (2) business days following mailing as aforesaid, or if telecopied, when sent, provided a copy is mailed or delivered as provided herein:

To Developer:	Kam Sang Company, Inc. 411 E. Huntington Drive, Suite 305 Arcadia, California 91006 Attention: Mr. Ronnie Lam
To Agency:	Garden Grove Agency for Community Development 11222 Acacia Parkway Garden Grove, California 92840 Attn: Executive Director
Copy to:	Stradling Yocca Carlson & Rauth 660 Newport Center Drive, Suite 1600 Newport Beach, California 92660 Attention: Thomas P. Clark, Jr.

10.3 Binding Effect. The terms, covenants and conditions of this Option Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and transferees.

10.4 Entire Agreement. This Option Agreement sets forth the entire agreement between the parties hereto respecting the Option, and supersedes all prior negotiations and agreements, written or oral, concerning or relating to the subject matter of this Option Agreement.

10.5 California Law. This Option Agreement shall be governed by the laws of the State of California and any question arising hereunder shall be construed or determined according to such laws.

10.6 Time of the Essence. Time is of the essence of each and every provision of this Option Agreement.

10.7 Counterparts. This Option Agreement may be signed by the parties hereto in duplicate counterparts which together shall constitute one and the same agreement between the parties and shall become effective at such time as both of the parties shall have signed such counterparts.

10.8 Attorneys' Fees. If either party commences an action against the other to enforce any of the terms hereof or because of the breach by either party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including appeal of and/or enforcement of a judgment.

10.9 Computation of Time. All periods of time referred to in this Option Agreement shall include all Saturdays, Sundays and state or national holidays, unless the period of time is specified as business days (which shall not include Saturdays, Sundays and state or national holidays), provided that if the date or last date to perform any act or give any notice with respect to this Option Agreement shall fall on a Saturday, Sunday or state or national holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

10.10 Definition of Terms. Terms not otherwise defined in this Option Agreement are defined in the DDA.

IN WITNESS WHEREOF, this Option Agreement is executed by the parties hereto on the date first above written.

DEVELOPER:

NEW AGE BROOKHURST, LLC., a California limited liability company

By: _____

By: _____

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

By: _____

Its: _____

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Stradling Yocca Carlson & Rauth
Agency General Counsel

EXHIBIT A TO ATTACHMENT NO. 10
OPTION AGREEMENT

LEGAL DESCRIPTION

Parcel A

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Containing total of 3.700 acres, more or less.

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Containing total of 10.228 acres, more or less.

Orange Countywide Oversight Board

Date: 9/18/2018 Agenda Item No. 9A

From: Successor Agency to the Anaheim Redevelopment Agency

Subject**:** Resolution of the Countywide Oversight Board Approving Amendment to the Recognized Obligation Payment Schedule (ROPS)

Recommended Action:
Approve resolution approving amendment to FY 2018-19 ROPS for the Anaheim Successor Agency

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The Anaheim Successor Agency requests approval of the Amended Recognized Obligation Payment Schedule (ROPS) 18-19B for the second half of Fiscal Year 2018-19. The amendment would request RPTTF funds (Line 180) to pay a City loan obligation in the amount of $884,429 for construction of the Packing House alleyway.

The Department of Finance (DOF) denied the initial request for payment; however, based on an Appellate Court decision on December 19, 2017, the Successor Agency continues to assert that the City is due a lump sum payment of $884,429 pursuant to a certain Cooperation Agreement dated February 1, 2013.

Impact on Taxing Entities

The proposed ROPS Amendment will reduce residual RPTTF to the taxing entities from the January 2, 2019 distribution by $884,429. This amount is equal to the lump sum owed by the Successor Agency pursuant to the that certain Cooperation Agreement (Loan Agreement pursuant to Health & Safety Code Section 34173(h)), dated as of February 1, 2013, which was determined to be an enforceable obligation by the California Court of Appeal Opinion (the "Opinion") on Rehearing dated December 19, 2017 in Case No. C081918 (Super. Ct. No. 34201380001529CUWMGDS).

Attachments

1. Resolution
2. ROPS Amendment
3. Memo from the Director of Community & Economic Development
4. Successor Agency Resolution August 21, 2012
5. Court of Appeal Opinion and Prior DOF Letter

Resolution No. 18-___

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD WITH OVERSIGHT OF THE SUCCESSOR AGENCY TO THE ANAHEIM REDEVELOPMENT AGENCY APPROVING AN AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE 18-19 FISCAL PERIOD OF JANUARY 1, 2019 TO JUNE 30, 2019, SUBJECT TO SUBMITTAL TO, AND REVIEW BY, THE STATE DEPARTMENT OF FINANCE UNDER CALIFORNIA HEALTH AND SAFETY CODE, DIVISION 24, PART 1.85, AND AUTHORIZING THE POSTING AND TRANSMITTAL THEREOF

WHEREAS, the former Anaheim Redevelopment Agency ("Former Agency") previously was a public body, corporate and politic formed, organized, existing and exercising its powers under the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq*., and was formed by the City Council ("City Council") of the City of Costa Mesa ("City"); and

WHEREAS, the former Anaheim Redevelopment Agency ("Former Agency") previously was a public body, corporate and politic formed, organized, existing and exercising its powers under the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq*., and was formed by ordinance of the City Council of the City of Anaheim ("City"); and

WHEREAS, Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and wind down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 and by other subsequent legislation ("Dissolution Law"); and

WHEREAS, unless otherwise stated in this resolution, statutory references are to the California Health and Safety Code; and

WHEREAS, as of February 1, 2012, the Former Agency was dissolved under the Dissolution Law, and as a separate public entity, corporate and politic under Section 34171(g), the Successor Agency to the Anaheim Redevelopment Agency (the "Successor Agency") administers the enforceable obligations of the Former Agency and otherwise unwinds the Former Agency's affairs; and

WHEREAS, prior to July 1, 2018 under the Dissolution Law, in particular Sections 34179 and 34180, all actions of the Successor Agency were subject to the review and approval by a local seven-member oversight board, which oversaw and administered the Successor Agency's activities during the period from dissolution until June 30, 2018; and

WHEREAS, as of, on and after July 1, 2018 under the Dissolution Law, in particular Section 34179(j), in every California county there shall be only one oversight board that is staffed by the county auditor-controller, with certain exceptions that do not apply in the County of Orange; and

WHEREAS, as of, on and after July 1, 2018 the County of Orange through the Orange County Auditor-Controller established the single Orange Countywide Oversight Board in compliance with Section 34179(j), which serves as the oversight board to the 25 successor agencies existing and operating in Orange County, including the Successor Agency; and

WHEREAS, every oversight board, both the prior local oversight board and this newly established Orange Countywide Oversight Board, has fiduciary responsibilities to the holders of enforceable obligations and to the taxing entities that benefit from distributions of property tax and other revenues under the Dissolution Law, in particular Section 34188; and

WHEREAS, Sections 34177(o) and 34179 provide that each Recognized Obligation Payment Schedule ("ROPS") is submitted by the Successor Agency to the Oversight Board and then reviewed and approved by the Oversight Board before final review and approval by the State of California, Department of Finance ("DOF"); and

WHEREAS, Section 34177(o)(1)(E) authorizes that "[o]nce per period, and no later than October 1, a successor agency may submit one amendment to the [ROPS] approved by the department pursuant to this subdivision, if the oversight board makes a finding that a revision is necessary for the payment of approved enforceable obligations during the second one-half of the [ROPS] period, which shall be defined as January 1 to June 30, inclusive. A successor agency may only amend the amount requested for payment of approved enforceable obligations. The revised [ROPS] shall be approved by the oversight board and submitted to the department by electronic means in a manner of the department's choosing. The department shall notify the successor agency and the county auditor-controller as to the outcome of the department's review at least 15 days before the date of the property tax distribution"; and

WHEREAS, pursuant to the California Court of Appeal Opinion (the "Opinion") on Rehearing dated December 19, 2017 in Case No. C081918 (Super. Ct. No. 34201380001529CUWMGDS) (the "Litigation"), the California Court of Appeal held and determined that the lump sum payment of $884,429 (the "Packing House Obligation") owed by the Successor Agency to the City pursuant to that certain Cooperation Agreement (Loan Agreement pursuant to Health & Safety Code Section 34173(h)), dated as of February 1, 2013 (the "Packing House Loan"); and

WHEREAS, the Packing House Loan obligation is included on the Successor Agency's ROPS for fiscal year 2018-19 as line item 180; however, such amount has been denied by DOF based on the assertion that the trial court is required to issue a final writ in the Litigation before DOF will authorize the Successor Agency to pay the Packing House Obligation to the City; and

WHEREAS, the Successor Agency has asserted and continues to assert to DOF that the Packing House Obligation was upheld by the California Court of Appeal in its December 19, 2017 Opinion in the Litigation and that the portion of the Court's Opinion remanding the case back to the trial court does not apply to the Court's Opinion that the Packing House Loan is an enforceable obligation and that the Packing House Obligation is due and payable to the City; and

WHEREAS, the Successor Agency has submitted to the Orange Countywide Oversight Board an amendment to ROPS 18-19 reflecting additional payments from RPTTF for ROPS line item 180, to enable the Successor Agency to pay the Packing House Obligation to the City pursuant to the Court's Opinion in the Litigation; and

WHEREAS, the objective of this Orange Countywide Oversight Board resolution is to authorize, make findings, and approve the Successor Agency's amendment of ROPS 18-19 to correct and increase line item 180 as reflected on the amendment to the Successor

Agency's ROPS 18-19 attached as Attachment No. 1 to this resolution and fully incorporated herein by this reference; and

WHEREAS, the Orange Countywide Oversight Board has reviewed the Successor Agency's amendment of ROPS 18-19, and desires to make certain findings, including: (i) amendment is necessary to pay a DOF-approved enforceable obligation on ROPS 18-19 during the "B" fiscal period, (ii) ROPS 18-19, as amended, is approved, (iii) the Successor Agency or City staff are authorized to post ROPS 18-19, as amended, on the City's website, and (iv) staff is directed to transmit ROPS 18-19, as amended, to the DOF, with copies to the County of Orange Administrative Officer, the County of Orange Auditor-Controller, and the State Controller's Office pursuant to the Dissolution Law;

NOW, THEREFORE, BE IT RESOLVED THAT THE ORANGE COUNTYWIDE OVERSIGHT BOARD does hereby resolve as follows:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

Section 2. The Orange Countywide Oversight Board hereby finds the revision set forth in amended ROPS 18-19 for funds to be distributed from the Redevelopment Property Tax Trust Fund (RPTTF) for the fiscal period January 1, 2019 to June 30, 2019 is necessary to pay DOF-approved enforceable obligations for such ROPS 18-19 period; in particular, the amendment is to correct and increase the RPTTF authorized for disbursement to the Successor Agency and payment by the Successor Agency for line item 180.

Section 3. Under the Dissolution Law, the Orange Countywide Oversight Board approves the ROPS 18-19, as amended, (Attachment No. 1); provided however, that the ROPS 18-19, as amended, is approved subject to the condition that such ROPS, as amended, is to be submitted to and reviewed by the DOF. Further, the Executive Director of the Successor Agency and his authorized designees, in consultation with legal counsel, shall be authorized to discuss this matter with the DOF and make augmentations, modifications, additions or revisions as may be necessary or directed by DOF.

Section 4. Orange Countywide Oversight Board authorizes transmittal of ROPS 18-19, as amended, to the DOF with copies to the Orange County Executive Officer, Orange County Auditor-Controller, and State Controller's Office.

Section 5. The Executive Director of the Successor Agency and his authorized designees directed to post this Resolution, including the ROPS 18-19, as amended, on the City's website pursuant to the Dissolution Law.

Section 6. Under Section 34179(h) written notice and information about certain actions taken by the Orange Countywide Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing. The Orange Countywide Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.

Section 7. The Clerk of the Orange Countywide Oversight Board shall certify to the adoption of this Resolution.

ATTACHMENT NO. 1

ROPS 18-19, AS AMENDED

(attached)

Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - Summary

Filed for the January 1, 2019 through June 30, 2019 Period

Successor Agency: **Anaheim**

County: Orange

	Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	ROPS 18-19B Authorized Amounts	ROPS 18-19B Requested Adjustments	ROPS 18-19B Amended Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ 150,000**	**$ -**	**$ 150,000**
B	Bond Proceeds	-	-	-
C	Reserve Balance	-	-	-
D	Other Funds	150,000	-	150,000
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 8,399,511**	**$ 884,429**	**$ 9,283,940**
F	RPTTF	8,041,052	884,429	8,925,481
G	Administrative RPTTF	358,459	-	358,459
H	**Current Period Enforceable Obligations (A+E):**	**$ 8,549,511**	**$ 884,429**	**$ 9,433,940**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/

Signature Date

Anaheim Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - ROPS Detail

January 1, 2019 through June 30, 2019

(Report Amounts in Whole Dollars)

				AUTHORIZED AMOUNTS						REQUESTED ADJUSTMENTS						
				Fund Sources						Fund Sources						
Item #	Project Name/Debt Obligation	Obligation Type	Total Outstanding Balance	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Notes
			$ 292,072,028	$ -	$ -	$ 150,000	$ 8,041,052	$ 358,459	$ 8,549,511	$ -	$ -	$ -	$ 884,429	$ -	$ 884,429	
50	Tax Allocation Refunding Bonds	Bonds Issued On or Before	$ 67,240,168	-	-	-	-		$ -						$ -	
54	Fiscal agent/arbitrage svcs	Fees	$ 560,000	-	-	-	10,000		$ 10,000						$ -	
56	HUD 108 Loan-Capital Projects	CDBG/HUD Repayment to City/County	$ 5,962,707	-	-	-	87,150		$ 87,150						$ -	
58	HUD 108 Loan-Westgate	CDBG/HUD Repayment to City/County	$ 5,854,214	-	-	-	122,676		$ 122,676						$ -	
63	External Project Costs	Professional Services	$ 536,000	-	-	-	12,000		$ 12,000						$ -	
64	Plaza Redev. Project Area	OPA/DDA/Construction	$ 40,000	-	-	-	-		$ -						$ -	
66	River Valley Redev. Proj. Area	OPA/DDA/Construction	$ 4,027,729	-	-	-	-		$ -						$ -	
68	Anaheim Westgate Center Proj.	Miscellaneous	$ 6,381,740	-	-	-	103,952		$ 103,952						$ -	
70	8.9-acre SoCal Edison	Miscellaneous	$ 16,701,249	-	-	-	269,140		$ 269,140						$ -	
71	Shoe City lease	Miscellaneous	$ 1,830,593	-	-	-	18,402		$ 18,402						$ -	
75	External Project Costs	Professional Services	$ 540,000	-	-	-	10,000		$ 10,000						$ -	
103	External Project Costs	Professional Services	$ -						$ -						$ -	
114	Avon Dakota Revitalization	Miscellaneous	$ -						$ -						$ -	
115	Avon Dakota Revitalization	Miscellaneous	$ -						$ -						$ -	
116	Project Management	Project Management Costs	$ -						$ -						$ -	
117	External Project Costs	Professional Services	$ -						$ -						$ -	
135	Administrative Cost Allowance	Admin Costs	$ 716,918	-	-	-	-		$ -						$ -	
137	Coop. Agr. - Reimb of Costs	Unfunded Liabilities	$ -						$ -						$ -	
150	Plaza Redev. Project Area (Previous ROPS Line 65)	OPA/DDA/Construction	$ 2,684,623	-	-	-	-		$ -						$ -	
151	Westgate Remediation (Previous ROPS Line 100)	Remediation	$ 17,520,537	-	-	-	170,000		$ 170,000						$ -	
180	Cooperation /Loan Agreement - 34173(h) - Retroactive Payments (Previous ROPS Line 153)	City/County Loans After 6/27/11	$ 884,429						$ -				884,429		$ 884,429	
183	Tax Allocation Refunding Bonds (Previous ROPS Line 51)	Reserves	$ -	-	-	-	-		$ -						$ -	
184	2010 Taxable Recovery Zone Bonds (Previous ROPS Line 53)	Reserves	$ -	-	-	-	-		$ -						$ -	
185	Administrative Cost Allowance to Housing Successor Per AB 471 (Previous ROPS Line 156)	Housing Entity Admin Cost	$ -						$ -						$ -	
186	Administrative Cost Allowance to Housing Successor Per AB 471 (Retroactive Disallowed Allowance) - Previous ROPS Line 156	Housing Entity Admin Cost	$ -						$ -						$ -	
187	Domain Project Area Remediation	Remediation	$ 300,000	-	-	150,000	-		$ 150,000						$ -	
191	Insurance for Westgate LandFill (Related to Line 151)	Remediation	$ 675,369	-	-	-	-		$ -						$ -	
192	Overreported "Other Funds" From Cash Balance Form	Miscellaneous	$ -						$ -						$ -	
193	2018 Refunding Bonds Series A	Bonds Issued On or Before 12/31/10	$ 154,191,796	-	-	-	2,686,375		$ 2,686,375						$ -	
194	2018 Refunding Bonds Series B	Bonds Issued On or Before 12/31/10	$ 4,853,956	-	-	-	4,522,857		$ 4,522,857						$ -	
195	Westgate Remediation - Water Control Board	Remediation	$ 570,000	-	-	-	28,500		$ 28,500						$ -	
			$ -						$ -						$ -	
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Anaheim Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - ROPS Detail

January 1, 2019 through June 30, 2019

(Report Amounts in Whole Dollars)

				AUTHORIZED AMOUNTS						REQUESTED ADJUSTMENTS						
				Fund Sources						Fund Sources						
Item #	Project Name/Debt Obligation	Obligation Type	Total Outstanding Balance	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Notes
			$ -						$ -						$ -	
			$ -						$ -						$ -	
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			$ -						$ -						$ -	

Anaheim Report of Prior Period Adjustments
Reported for the ROPS 16-17 Period (July 1, 2016 to June 30, 2017)
(Report Amounts in Whole Dollars)

ROPS 16-17 Successor Agency (SA) Self-reported Prior Period Adjustments (PPA): Pursuant to HSC Section 34186 (a) (1), SAs are required to report the differences between their actual available funding and their actual expenditures for the ROPS 16-17 period. The amount of Redevelopment Property Tax Trust Fund (RPTTF) approved for the ROPS 19-20 (July 1, 2019-June 30, 2020) period will be offset by the ROPS 16-17 PPA. HSC Section 34186 (a) (1) also specifies that the PPA self-reported by SAs are subject to audit by the County Auditor-Controller (CAC). CAC PPA review is subject to Finance's review and approval.

ROPS 16-17 CAC PPA: To be completed by the CAC upon submittal by the SA to CAC. CACs will need to enter their own formulas at the line item level. Also note that the Admin amounts do not need to be listed at the line item level and may be entered as a lump sum.

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB
		Non-RPTTF Expenditures						RPTTF Expenditures												RPTTF Expenditures							
		Bond Proceeds		Reserve Balance		Other Funds		RPTTF					Admin RPTTF					PPA		RPTTF			Admin RPTTF			PPA	
Item #	Project Name / Debt Obligation	Authorized	Actual	Authorized	Actual	Authorized	Actual	Authorized	Available RPTTF	Lesser of Authorized / Available	Actual	Difference (If K is less than L, the difference is zero)	Authorized	Available RPTTF	Lesser of Authorized / Available	Actual	Difference (If total actual exceeds total authorized, the total difference is zero)	Total Difference (M+R)	SA Comments	Lesser of Authorized / Available	Actual	Difference	Lesser of Authorized / Available	Actual	Difference	Total Difference	CAC Comments
		$ 3,479,055	$ 454,035	$ 156,112	$ 156,112	$ 3,444,992	$ 2,848,406	$ 21,630,694	$ 21,630,694	$ 21,630,694	$ 21,291,083	$ 339,611	$ 638,212	$ 638,212	$ 638,212	$ 509,549	$ 128,663	$ 468,274									
50	Tax Allocation Refunding Bonds	$ -		$ 156,112	156,112	$ 2,692,792	2,692,792	$ 13,066,328	13,066,328	$ 13,066,328	13,066,328	$ -															
52	2010 Taxable Recovery Zone Bonds	$ -		$ -		$ 141,200	141,200	$ 435,474	435,474	$ 435,474	435,468	$ 6															
54	Fiscal agent/arbitrage svcs	$ -		$ -		$ -		$ 20,000	20,000	$ 20,000	13,662	$ 6,338															
56	HUD 108 Loan-Capital Projects	$ -		$ -		$ -		$ 534,460	534,460	$ 534,460	534,460	$ -															
58	HUD 108 Loan-Westgate	$ -		$ -		$ -		$ 1,011,588	1,011,588	$ 1,011,588	1,011,588	$ -															
60	Borrow from Housing Set-Aside	$ -		$ -		$ -		$ -		$ -		$ -															
61	Borrow from Housing Set-Aside	$ -		$ -		$ -		$ 1,905,186	1,905,186	$ 1,905,186	1,905,186	$ -															
62	Project Management	$ -		$ -		$ -		$ -		$ -		$ -															
63	External Project Costs	$ -		$ -		$ -		$ 40,000	40,000	$ 40,000	12,290	$ 27,710															
64	Plaza Redev. Project Area	$ -		$ -		$ -		$ 30,000	30,000	$ 30,000	20,000	$ 10,000															
66	River Valley Redev. Proj. Area	$ -		$ -		$ -		$ 395,697	395,697	$ 395,697	395,697	$ -															
67	Fry's	$ -		$ -		$ -		$ 275,321	275,321	$ 275,321	180,724	$ 94,597															
68	Anaheim Westgate Center Proj.	$ -		$ -		$ -		$ 94,501	94,501	$ 94,501	94,501	$ -															
70	8.9-acre SoCal Edison	$ -		$ -		$ -		$ 507,810	507,810	$ 507,810	507,810	$ -															
71	Shoe City lease	$ -		$ -		$ -		$ 33,456	33,456	$ 33,456	33,456	$ -															
74	Project Management	$ -		$ -		$ -		$ -		$ -		$ -															
75	External Project Costs	$ -		$ -		$ -		$ 40,000	40,000	$ 40,000	14,810	$ 25,190															
78	Property Management Svcs	$ -		$ -		$ -		$ -		$ -		$ -															
79	Downtown Parking	$ -		$ -		$ -		$ -		$ -		$ -															
80	Downtown Properties/CC&Rs	$ -		$ -		$ -		$ -		$ -		$ -															
81	Project Management	$ -		$ -		$ -		$ -		$ -		$ -															
82	External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
86	DDA/Add'l Capital Improvements	$ -		$ -		$ -		$ -		$ -		$ -															
89	DDA/Mgt. and Operations Agr.	$ -		$ -		$ -		$ -		$ -		$ -															
90	DDA/Mgt. and Operations Agr.	$ -		$ -		$ -		$ -		$ -		$ -															
91	Project Management	$ -		$ -		$ -		$ -		$ -		$ -															
92	External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
102	Project Management	$ -		$ -		$ -		$ -		$ -		$ -															
103	External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
104	Anaheim Blvd DDA	$ -		$ -		$ -		$ -		$ -		$ -															
107	External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
108	Project Management	$ -		$ -		$ -		$ -		$ -		$ -															
109	External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
114	Avon Dakota Revitalization	$ -		$ -		$ -		$ -		$ -		$ -															
115	Avon Dakota Revitalization	$ -		$ -		$ -		$ -		$ -		$ -															
116	Project Management	$ -		$ -		$ -		$ -		$ -		$ -															
117	External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
121	CIM Downtown Parcels A & B	$ -		$ -		$ -		$ -		$ -		$ -															
122	The LAB Center St. Promenade	$ -		$ -		$ -		$ -		$ -		$ -															
123	Project Management	$ -		$ -		$ -		$ -		$ -		$ -															
124	External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
135	Administrative Cost Allowance	$ -		$ -		$ -		$ -		$ -		$ -															
137	Coop. Agr. - Reimb of Costs	$ -		$ -		$ -		$ -		$ -		$ -															
141	Infrastructure Improvements	$ 3,449,655	424,635	$ -		$ -		$ -		$ -		$ -															
142	Litigation Expenses	$ -		$ -		$ -		$ -		$ -		$ -															
149	Coop Agreement - Colony	$ -		$ -		$ -		$ -		$ -		$ -															
150	Plaza Redev. Project Area (Previous ROPS Line 65)	$ -		$ -		$ -		$ 620,715	620,715	$ 620,715	567,165	$ 53,550															
151	Westgate Remediation (Previous ROPS Line 100)	$ -		$ -		$ -		$ 426,000	426,000	$ 426,000	303,780	$ 122,220															
157	Expenditure in excess of authorized estimate for ROPS Period II; Line 63; Debt External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
158	Expenditure in excess of authorized estimate for ROPS Period II; Line 82; Asset Mgmt External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
159	Expenditure in excess of authorized estimate for ROPS Period II; Line 87; Packing House Reconstruction	$ -		$ -		$ -		$ -		$ -		$ -															
160	Expenditure in excess of authorized estimate for ROPS Period II; Line 95; Colony Park Phase III, Brookfield Property Mgmt Costs	$ -		$ -		$ -		$ -		$ -		$ -															
161	Expenditure in excess of authorized estimate for ROPS Period II; Line 115; Avon Dakota Relocation Costs	$ -		$ -		$ -		$ -		$ -		$ -															
168	Expenditure in excess of authorized estimate for ROPS Period III; Line 72; Quiet Zone	$ -		$ -		$ -		$ -		$ -		$ -															
171	Expenditure in excess of authorized estimate for ROPS Period III; Line 84; Packing House Redevelopment Costs	$ -		$ -		$ -		$ -		$ -		$ -															
174	Expenditure in excess of authorized estimate for ROPS Period III; Line 117; Avon Dakota External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
175	Expenditure in excess of authorized estimate for ROPS Period III; Line 119; Housing Monitoring Project Mgmt.	$ -		$ -		$ -		$ -		$ -		$ -															
176	Expenditure in excess of authorized estimate for ROPS Period III; Line 120; Housing Monitoring External Project Costs	$ -		$ -		$ -		$ -		$ -		$ -															
177	Expenditure in excess of authorized estimate for ROPS Period III; Line 140; Cooperation/ Loan Agreement	$ -		$ -		$ -		$ -		$ -		$ -															
178	Expenditure in excess of authorized estimate for ROPS Period 14-15A; Line 89; DDA/Mgmt. and Operations Agreement	$ -		$ -		$ -		$ -		$ -		$ -															

179	Cooperation/Loan Agreement - 34173(h) - Retroactive Payments (Previous ROPS Line 152)	$ -		$ -		$ -		$ -		$ -		$ -	
180	Cooperation /Loan Agreement - 34173(h) - Retroactive Payments (Previous ROPS Line 153)	$ -		$ -		$ -		$ -		$ -		$ -	
181	City Loan for Successor Agency Overspent Amount on Prior ROPS (Previous ROPS Line 154)	$ -		$ -		$ -		$ -		$ -		$ -	
183	Tax Allocation Refunding Bonds (Previous ROPS Line 51)	$ -		$ -		$ -		$ 2,194,158	2,194,158	$ 2,194,158	2,194,158	$ -	
184	2010 Taxable Recovery Zone Bonds (Previous ROPS Line 53)	$ -		$ -		$ -		$ -		$ -		$ -	
185	Administrative Cost Allowance to Housing Successor Per AB 471 (Previous ROPS Line 156)	$ -		$ -		$ -		$ -		$ -		$ -	
186	Administrative Cost Allowance to Housing Succesor Per AB 471 (Retroactive Disallowed Allowance) - Previous ROPS Line 156	$ -		$ -		$ -		$ -		$ -		$ -	
187	Domain Project Area Remediation	$ -		$ -		$ 611,000	14,414	$ -		$ -		$ -	
188	Insufficient Funds Provided for Debt Service of 2010 Taxable Recovery Zone Bonds in ROPS 15-16A (From Line 52)	$ -		$ -		$ -		$ -		$ -		$ -	
189	Expenditure in excess of authorized estimate for ROPS Period III; Line 116; Avon Dakota Project Management (corrected line from Line 174 in ROPS 15-16A that stated Line 117 External Project Costs)	$ -		$ -		$ -		$ -		$ -		$ -	
190	Capital Improvements - Tax Exempt 2007 Available Bond Proceeds	$ 29,400	29,400	$ -		$ -		$ -		$ -		$ -	
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OVERSIGHT BOARD AGENDA REPORT

City of Anaheim
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

DATE: **SEPTEMBER 18, 2018**

FROM: **COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT**

SUBJECT: **APPROVAL OF AMENDMENT TO ROPS 18-19**

ATTACHMENT (Y/N): **YES**

RECOMMENDATION:

Approve a Resolution of the Orange Countywide Oversight Board with oversight to the Successor Agency to the Anaheim Redevelopment Agency, approving an amendment to the Recognized Obligation Payment Schedule For July 1, 2018 through June 30, 2019 pursuant to Health and Safety Code Section 34177(O)(1)(E).

DISCUSSION:

The Successor Agency to the Anaheim Redevelopment Agency is requesting approval of an amendment to its ROPS 18-19 (July 1, 2018 to June 30, 2019) to request RPTTF funds (Line 180) to pay a City loan obligation in the amount of $884,429 for construction of the Packing House alleyway. The Department of Finance (DOF) denied the initial request for payment; however, based on an Appellate Court decision on December 19, 2017, the Successor Agency continues to assert that the City is due a lump sum payment of $884,429 pursuant to a certain Cooperation Agreement dated February 1, 2013.

For clarification purposes, please find attached a resolution adopted by the governing body of the Successor Agency to the Anaheim Redevelopment Agency authorizing the Director of the Community and Economic Development Department to act on behalf of the Successor Agency with regard to matters relating to the ROPS.

Respectfully,

John E. Woodhead IV
Executive Director

Attachments:
1. Resolution
2. ROPS Amendment
3. Successor Agency Resolution August 21, 2012

201 S. Anaheim Blvd.
Suite 1003
Anaheim, CA 92805
Tel: (714) 765-4300
Fax: (714) 765-4331
www.anaheim.net

RESOLUTION NO. 2012-105

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANAHEIM, ACTING AS THE SUCCESSOR AGENCY TO THE ANAHEIM REDEVELOPMENT AGENCY, AUTHORIZING AND DIRECTING THE EXECUTIVE DIRECTOR OF THE COMMUNITY DEVELOPMENT DEPARTMENT TO REPRESENT THE CITY, ACTING IN ITS CAPACITY AS THE SUCCESSOR AGENCY TO THE ANAHEIM REDEVELOPMENT AGENCY, IN MATTERS PERTAINING TO THE REDEVELOPMENT DISSOLUTION ACT, AS AMENDED.

WHEREAS, prior to February 1, 2012, the Anaheim Redevelopment Agency (herein referred to interchangeably as the "Agency" or the "dissolved Agency") was a community redevelopment agency duly organized and existing under the California Community Redevelopment Law (Health and Safety Code Sections 33000 *et seq.*), and was authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City of Anaheim ("City"); and

WHEREAS, Assembly Bill x1 26, which was passed by the California State Legislature, approved by the Governor on June 28, 2011, and chaptered by the Secretary of State on June 29, 2011, added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code, which laws caused the dissolution and wind down of all redevelopment agencies (herein referred to as the "Dissolution Act"); and

WHEREAS, on December 29, 2011, in the petition *California Redevelopment Association v. Matosantos*, the California Supreme Court upheld the Dissolution Act, which had the effect of dissolving all redevelopment agencies in California as of and on February 1, 2012; and

WHEREAS, as of, on and after February 1, 2012, the Agency became a dissolved community redevelopment agency pursuant to the Dissolution Act; and

WHEREAS, by Resolution No. 2012-001, considered and approved by the City Council at an open public meeting on January 10, 2012, the City Council elected to have the City serve as the "Successor Agency" to the dissolved Agency under the Dissolution Act, thereby assuming all authority, rights, powers, duties and obligations previously vested with the Agency under the California Community Redevelopment Law, effective upon dissolution of the Agency on February 1, 2012; and

WHEREAS, as of, on and after February 1, 2012, the City began to perform and will continue to perform its functions as and on behalf of the Successor Agency to the dissolved Agency under the Dissolution Act to administer the enforceable obligations of the Agency and

otherwise unwind the dissolved Agency's affairs, all subject to the review and approval by a seven-member "Oversight Board" formed thereunder; and

WHEREAS, as part of the Fiscal Year 2012-13 State budget package, on June 27, 2012, the California State Legislature passed, and the Governor signed, Assembly Bill 1484 (herein referred to as "AB 1484"), the primary purpose of which was to make technical and substantive amendments to the Dissolution Act based upon experience to-date at the state and local level in implementing the Dissolution Act. As a budget trailer bill, AB 1484 took immediate effect upon signature by the Governor; and

WHEREAS, the City, as Successor Agency to the dissolved Agency, is required to perform certain duties and obligations under the Dissolution Act, as amended by AB 1484, to administer the enforceable obligations of the dissolved Agency and otherwise unwind the dissolved Agency's affairs, including, but not limited to, the preparation and adoption of periodic Recognized Obligation Payment Schedules and other matters described in Sections 34177, 34179.5, 34179.6 and 34181 of the California Health and Safety Code, all subject to the review and approval by the Oversight Board of the Successor Agency to the dissolved Agency (herein referred to as the "Oversight Board"); and

WHEREAS, the City Council, serving as, and on behalf of, the Successor Agency to the dissolved Agency, desires to authorize the Executive Director of the Community Development Department (or his designee) (herein referred to as the "Executive Director") to take certain actions for and on behalf of the City, in its capacity as the Successor Agency to the dissolved Agency, in the manner hereinafter provided.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, SERVING AS AND ON BEHALF OF THE SUCCESSOR AGENCY TO THE ANAHEIM REDEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference and constitute a material part hereof.

Section 2. Whenever reference is made in the Dissolution Act, as amended by AB 1484, and as the same may be amended from time to time (herein referred to collectively as the "Dissolution Act, as Amended"), to an action or approval to be undertaken by the Successor Agency, the Executive Director is authorized to act, subject to the approval of the Oversight Board and in compliance in all respects with the requirements of the Dissolution Act, as Amended, unless this Resolution or the Dissolution Act, as Amended, specifically provide otherwise or the context should otherwise require.

Section 3. Without the prior approval and authorization of both the City Council, serving as, and on behalf of, the Successor Agency in its capacity as the Successor Agency to the dissolved Agency, and the Oversight Board in accordance with the requirements of the Dissolution Act, as Amended, the Executive Director shall lack the authority to, and shall not, obligate or commit the City, acting in its capacity as the Successor Agency to the dissolved Agency, to any of the transactions described in subdivision (e) of Section 34177, subdivisions

(a), (b), (d), (e), (f), (h) and (i) of Section 34180, and subdivisions (a), (b), (d) and (e) of Section 34181 of the California Health and Safety Code.

Section 4. The Executive Director is further authorized and directed for and on behalf of the City, as Successor Agency to the dissolved Agency, to take any and all actions and execute and deliver any and all documents and instruments which he may deem necessary and advisable to effectuate the purposes of this Resolution and in compliance in all respects with the requirements of the Dissolution Act, as Amended.

Section 5. This Resolution shall be effective immediately upon adoption.

THE FOREGOING RESOLUTION IS APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF ANAHEIM, SERVING AS AND ON BEHALF OF THE SUCCESSOR AGENCY TO THE FORMER ANAHEIM REDEVELOPMENT AGENCY, THIS 21st DAY OF August, 2012, BY THE FOLLOWING ROLL CALL VOTE:

AYES: Mayor Tait, Council Members Sidhu, Galloway, Eastman and Murray

NOES: None

ABSENT: None

ABSTAIN: None

CITY OF ANAHEIM, AS THE SUCCESSOR AGENCY TO THE ANAHEIM REDEVELOPMENT AGENCY

CHAIRMAN

ATTEST:

SECRETARY

91113

Filed 12/19/17 On rehearing

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

CITY OF ANAHEIM et al., Plaintiffs and Appellants, v. MICHAEL COHEN, as Director, etc. et al., Defendants and Respondents,	C081918 (Super. Ct. No. 34201380001529CUWMGDS) OPINION ON REHEARING

APPEAL from a judgment of the Superior Court of Sacramento County, Michael P. Kenny, Judge. Reversed.

Rutan & Tucker, Jeffrey M. Oderman for Plaintiffs and Appellants.

Kamala D. Harris and Xavier Becerra, Attorneys General, Douglas J. Woods, Senior Assistant Attorney General, Constance L. LeLouis and Anthony P. O'Brien, Deputy Attorneys General, for Defendants and Respondents.

In this redevelopment case, the city of Anaheim, acting in its capacity as successor to the former Anaheim Redevelopment Agency, sought approval from the California Department of Finance (the department) to obtain money from the Redevelopment Property Tax Trust Fund (the fund or, sometimes, the RPTTF) to pay back the city of Anaheim for payments the City of Anaheim made to a construction company to complete certain real property improvements that the former Anaheim Redevelopment Agency was obligated to provide on a particular redevelopment project (the packing district project).[1] The city and the city as successor characterized the transaction between themselves as a loan, but the department ultimately denied the claim for money from the fund because the city did not disburse the loan proceeds to the city as successor, but instead paid the construction company directly, and because the city as successor did not obtain prior approval for the "loan" agreement with the city from the oversight board.

Around the same time, the city as successor sought approval from the department to obtain money from the fund to make payments to the Anaheim Housing Authority (the authority) under a cooperation agreement between the agency and the authority, the purpose of which was to provide funding for the Avon/Dakota revitalization project, which was being carried out by a private developer -- The Related Companies of California, LLC (Related) -- pursuant to a contract with the authority. The department denied that claim because the 2011 law that dissolved the former redevelopment agencies renders agreements between a former redevelopment agency and the city that created that agency (or, as relevant here, a closely affiliated entity like the authority) unenforceable.[2]

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[1] We will refer to the former Anaheim Redevelopment Agency as the agency. We will refer to the City of Anaheim acting in its capacity as successor to the agency as the city as successor and otherwise as the city.

[2] We will sometimes refer to the body of laws governing the dissolution of redevelopment agencies as the dissolution law.

The city, the city as successor, and the authority sought mandamus, declaratory, and injunctive relief on both issues in the superior court, but the trial court denied the writ petition and dismissed the complaint for declaratory and injunctive relief.[3]

On plaintiffs' appeal, we conclude the trial court erred. As we will explain, with respect to the packing district project, the fact that the city contracted directly with the construction company to construct the improvements the agency was legally obligated to provide at that project, and the fact that the city paid the company directly for its work, did not mean the agreement between the city and the city as successor with respect to the transaction was not a loan, as the department and the trial court concluded. Also, the fact that the city as successor did not obtain prior approval from the oversight board to enter into a loan agreement with the city did not give the department a valid reason to deny the city as successor's request for money from the fund to pay off the loan.

As for the money from the fund claimed for the Avon/Dakota revitalization project, we conclude that enforcing the provision of the dissolution law that renders unenforceable an agreement between a former redevelopment agency and the city that created it (or an affiliated entity like the authority) would, in this case, unconstitutionally impair Related's contractual rights under its agreement with the authority. Accordingly, that provision cannot be enforced here to deny the city as successor the right to obtain money from the fund to pay the authority that, in turn, the authority is obligated to pay Related to carry out the revitalization project.

Accordingly, we will reverse.

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[3] For ease of reference, we will refer to these three parties, along with Related, who was named as a real party in interest in the trial court, jointly as plaintiffs, because all four parties are participating as appellants in this appeal and thus share a common interest in the case.

LEGAL BACKGROUND

Before June 2011, the Community Redevelopment Law (Health & Saf. Code,[4] § 33000 et seq.) authorized cities and counties to establish redevelopment agencies to remediate urban decay and revitalize blighted communities. (*California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, 245-246 (*Matosantos*).) To finance their activities, redevelopment agencies relied on "tax increment financing . . . . [Citations.] Under this method, those public entities entitled to receive property tax revenue in a redevelopment project area (the cities, counties, special districts, and school districts containing territory in the area) [we]re allocated a portion based on the assessed value of the property prior to the effective date of the redevelopment plan. Any tax revenue in excess of that amount -- the tax increment created by the increased value of project area property -- [went] to the redevelopment agency for repayment of debt incurred to finance the project. [Citations.] In essence, property tax revenues for entities other than the redevelopment agency [we]re frozen, while revenue from any increase in value [wa]s awarded to the redevelopment agency on the theory that the increase [wa]s the result of redevelopment." (*Id.* at pp. 246-247.)

In June 2011, as a partial means of closing the state's projected budget deficit, the Legislature passed, and the Governor signed, Assembly Bill XI 26, which, in addition to other things, "dissolve[d] all redevelopment agencies [citation] and transfer[red] control of redevelopment agency assets to successor agencies, which are contemplated to be the city or county that created the redevelopment agency." (*Matosantos, supra*, 53 Cal.4th at p. 251.) A successor agency is required to "[c]ontinue to make payments due for enforceable obligations" (§ 34177, subd. (a)), which include "[a]ny legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or

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4 All further section references are to the Health and Safety Code.

public policy" (§ 34171, subd. (d)(1)(E)), but which do *not* include "any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency" (*ibid.*, subd. (d)(2)).[5]

To obtain funds to make payments required by enforceable obligations, a successor agency must prepare, and submit to the department for approval, a recognized obligation payment schedule (ROP schedule) for every six-month fiscal period from January 1, 2012 through June 30, 2016 (§§ 34171, subd. (h), 34177, subds. (a)(1), (l) & (m)) and thereafter for every fiscal year (§ 34177, subd. (o).) An ROP schedule "set[s] forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period." (§ 34171, subd. (h).) For each recognized obligation, the schedule must "identify one or more . . . sources of payment." (§ 34177, subd. (l)(1).) Among the possible sources of payment is the fund (*id.*, subd. (l)(1)(E)), into which the county auditor-controller is charged with depositing tax increment funding, i.e., "the amount of property taxes that would have been allocated to each redevelopment agency in the county had the redevelopment agency not been dissolved." (§ 34182, subd. (c)(1).)

The successor agency's oversight board must approve each ROP schedule. (§ 34180, subd. (g).) Following the oversight board's approval, the agency must submit the ROP schedule to the department for its approval. (§ 34177, subd. (m)(1).) The department then determines "the enforceable obligations and the amounts and funding sources of the enforceable obligations." (*Ibid.*)

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5 A related provision of the dissolution law provides that "[c]ommencing on the operative date of this part, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency." (§ 34178, subd. (a).)

In 2012, the dissolution law was amended to provide a mechanism by which the municipality that created a redevelopment agency could lend money to the successor agency to make payments due on enforceable obligations. Specifically, former subdivision (h) was added to section 34173, and at the time relevant here that subdivision provided as follows: "The city, county, or city and county that authorized the creation of a redevelopment agency may loan or grant funds to a successor agency for administrative costs, enforceable obligations, or project-related expenses at the city's discretion, but the receipt and use of these funds shall be reflected on the Recognized Obligation Payment Schedule or the administrative budget and therefore are subject to the oversight and approval of the oversight board. An enforceable obligation shall be deemed to be created for the repayment of those loans."[6] (Stats. 2012, ch. 26, § 7.)

With this legal background in mind, we turn to the facts of this case.

FACTUAL AND PROCEDURAL BACKGROUND

A

The Parking And Alley Improvements At The Packing District Project

On October 26, 2010, the agency and LAB Holding LLC (LAB) entered into an agreement for the redevelopment of several agency-owned properties in the city's "Packing District" (the LAB agreement). Among other things, the LAB agreement obligated the agency to construct a surface parking lot and interior alley improvements to serve the project (the parking and alley improvements).

In August 2012, the packing district project was nearing completion, but the city as successor had not yet entered into a construction contract for the parking and alley

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6 Subdivision (h) of section 34173 was later amended again in 2015 (Stats. 2015, ch. 325, § 3), after this action was commenced, and the department concedes the amended statute does not apply in this case. Accordingly, our analysis in this opinion is limited to the former version of that statute.

improvements it was obligated to provide under the LAB agreement. In the ROP schedule the city as successor prepared that month for the January 2013 through June 2013 fiscal period, the city as successor applied for a distribution from the fund of a sum needed to complete construction of the parking and alley improvements.

Despite having previously approved distributions from the fund of other amounts necessary for the city as successor to perform the agency's obligations under the LAB agreement, and despite continuing to approve other such distributions going forward, the department denied the requested distribution for the parking and alley improvements on the ground the money sought was not for an enforceable obligation. The city as successor submitted a meet and confer request to the department to challenge that determination, and the department issued a revised ruling on the matter in December 2012 denying the requested distribution because "no contracts [we]re in place for the construction."

Because the parking and alley improvements needed to be made quickly, and the city as successor could not wait for the next round of funding under the ROP system (which would not occur until July 2013), the city as successor sought another source of funding to complete the improvements. In February 2013, the city as successor entered into an agreement with the city entitled "COOPERATION AGREEMENT [¶] (Loan Agreement pursuant to Health & Safety Code Section 34173(h))" (bolding omitted) (the loan agreement). The loan agreement recited the pertinent factual background, up to and including the department's denial of the requested distribution from the fund, and noted that the department's denial "presente[d] a logistical challenge for [the city as successor], by requiring the [city as successor] to enter into a construction contract without prior authorization from the [department] to make the payments required by such contract." The loan agreement then noted that former subdivision (h) of section 34173 authorized the city to loan funds to the city as successor for an enforceable obligation and recited that the city desired "to assist the [city as successor] by providing a loan to the [city as

successor] . . . to enable the [city as successor] to enter into [a contract for construction of the parking and alley improvements] at this time and to pay for the construction of [those i]mprovements, all as required by the LAB [agreement]." The loan agreement went on to recite that "[c]oncurrently with this Agreement, the [city as successor] and the City desire to enter into a construction contract with Spiess Construction Co. Inc. . . . for the Parking and Alley Improvements" and that "the total potential expenditure authorized for" those improvements was $1,111,102.20.[7]

The loan agreement then provided that the city would loan to the city as successor, and the city as successor would borrow from the city, up to $1,111,102.20, and the agreement provided that the city would "disburse proceeds of the [loan] to [the city as successor] or directly to [Spiess Construction], as elected by the City, for work performed by [Spiess Construction] under the [construction c]ontract, all in accordance with the requirements of the" contract. The loan agreement also provided that the city as successor would repay the loan upon receipt of money from the fund.[8]

Later that month, the city entered into the contract with Spiess Construction (Spiess) for the construction of the parking and alley improvements.

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[7] This amount consisted of the price of the contract with Spiess Construction ($925,918.50), plus 20 percent of that contract price for potential change orders.

[8] "3. **Repayment of City Loan**. Successor Agency shall repay the City Loan to City promptly upon receipt of RPTTF moneys for the ROPS 13-14A period, and for and during each subsequent ROPS periods, if necessary, to repay the City Loan in full; provided however, that this Agreement and the Parking and Alley Construction Contract shall have been approved by the DOF as enforceable obligations on ROPS 13-14A (and each subsequent ROPS, as applicable). Subject to Section 4 below, Successor Agency shall repay the entire outstanding principal balance of the City Loan to the City on or before five (5) working days following the date the Successor Agency receives a disbursement of RPTTF moneys for the ROPS 13-14A period (and/or subsequent ROPS periods, as necessary); provided that the Parking and Alley Construction Contract is an approved enforceable obligation on ROPS 13-14A."

In the ROP schedule the city as successor prepared that same month (February 2013) for the July 2013 through December 2013 fiscal period, the city as successor requested a distribution from the fund in the sum of $1,111,102.20 -- the total potential amount of the loan provided for in the loan agreement. In April 2013, the department denied the request because "the loan was entered into for an item denied by [the department] during a prior ROPS period. Therefore, this item is not an enforceable obligation . . . ." Following the meet and confer process, the department issued a new denial letter in May 2013, denying the request because the city as successor was not a party to the construction contract between the city and Spiess.

In June 2013, the city and the city as successor commenced the present action by filing a petition for writ of mandate and complaint for declaratory and injunctive relief in the Sacramento County Superior Court. With respect to the parking and alley improvements, plaintiffs sought a writ compelling the department to set aside its previous actions and determinations and to "issue a formal written determination and directive that . . . the LAB [agreement] and [Cooperation] Agreement are enforceable obligations . . . eligible for payment from the . . . [f]und" and that the city as successor is "entitled to an allocation of moneys from the . . . [f]und in conjunction with future ROPS to the extent [the city as successor] places such agreements on the ROPS with a demand for payment and funds are available in the . . . [f]und to pay the amounts so requested."[9]

The construction of the parking and alley improvements was completed in November 2013, and the city paid for the construction under its contract with Spiess.

For the next ROP cycle (the fiscal period from January 2014 through June 2014), the city as successor did not renew its request for an allocation from the fund for the parking and alley improvements. However, in approving allocations from the fund for

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9 The mandamus action also encompassed claims relating to the Avon/Dakota revitalization project, discussed below.

other obligations incurred by the city as successor under the LAB agreement, the department acknowledged that the city as successor's obligation to complete the parking and alley improvements was an enforceable obligation that would be eligible for tax increment funds in the next ROP cycle. Accordingly, despite the pending litigation, the city as successor sought a distribution from the fund for its obligation to the city under the loan agreement in its ROP statement for the fiscal period from July 2014 through December 2014. Initially, the department denied this request because of lack of "additional clarification or documentation," but then following the meet and confer process denied the request again in May 2014 because "the [city as successor] did not submit an Oversight Board resolution to [the department] for review prior to entering the loan[]."

In September 2014, the city as successor obtained a stand-alone resolution from the oversight board approving the loan agreement.[10] The city as successor notified the department of the oversight board's approval in October 2014. Meanwhile, in September, the city as successor had once again submitted an ROP statement (this time for the fiscal period from January 2015 through June 2015) seeking a distribution from the fund for the amount owed to the city under the loan agreement (now fixed at $884,429).

In November 2014, the department provisionally denied the city as successor's request for a distribution, noting that it had not yet completed its review of the oversight board's resolution approving the loan agreement. Then, on December 8, 2014, the department disapproved the resolution. The department explained that "it does not appear that the City actually loaned funds to the [city as successor] for amounts owed

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[10] The oversight board had previously approved the ROP statements in which the city as successor sought allocations from the fund for the amount due the city under the loan agreement, but the board had not separately approved the loan agreement itself.

under a contract in which the [city as successor] is a party. Rather, the Cooperation Agreement seeks to reimburse the City for costs it incurred under an agreement between the City and Sp[ie]ss Construction." The department further asserted that even if former subdivision (h) of section 34173 applied to the loan agreement, "a request by the [city as successor] to enter into a loan agreement with the city . . . must be approved by the oversight board and is subject to [the department's] review prior to entering into the agreement. Additionally, the use of the loaned funds must first be presented on a ROPS subject to review by the [oversight board] and [the department]. The [city as successor] took none of these steps prior to entering into the Cooperation Agreement or the alleged expenditure of the funds pursuant to the Cooperation Agreement. Consequently, the [oversight board] has no authority to retroactively approve the actions taken by the [city as successor], and therefore the Cooperation Agreement is not effective." A week later, on December 17, 2014, the department rejected the city as successor's request for a distribution from the fund for the amount owed to the city under the loan agreement for the reasons stated in its letter of December 8.

In July 2015, a notice of hearing was filed in this mandamus proceeding, with the hearing set for December 2015 (later continued to January 2016). In their memorandum, plaintiffs argued that the city as successor was entitled to money from the fund as reimbursement for the costs expended to construct the parking and alley improvements at the packing district project, and plaintiffs set out to refute the various reasons the department had given over time for denying that funding. In response, the department argued that it did not abuse its discretion in denying the city as successor's request for money from the fund related to the parking and alley improvements because: (1) the city as successor was not a party to the construction agreement with Spiess, and therefore that agreement was not an enforceable obligation; (2) the city as successor did not obtain oversight board approval and submit that approval to the department before entering into the loan agreement with the city; and (3) former subdivision (h) of section 34173 did not

contemplate loan agreements in which a third party, rather than the successor agency, receives the funds loaned.

The trial court issued its ruling on submitted matter in February 2016. With regard to the parking and alley improvements and the loan agreement, the court noted that the city as successor was seeking to enforce an obligation that "is based on a contract between the City and the construction company." According to the court, while the LAB agreement "clearly created an enforceable obligation, funds are only due to the extent the [city as successor] actually expended funds to complete the parking and alley improvements. Because the [city as successor] is not a party to the construction contract with Spiess, it is the City, not the [city as successor], [that] expended funds to build the parking and alley improvements. There is no reference to the [city as successor] in the contract, and it is the City, not the [city as successor], that is given the express right to oversee construction and terminate the contractor's employment should the need arise. . . . [¶] Although the [loan a]greement anticipates that the City might pay loaned funds directly to the construction company, it does not indicate that the [city as successor] is authorizing or directing the City to enter into the parking construction contract on its behalf. The City Council, not the [city as successor] via the Oversight Board, 'passed and adopted, approved and authorized' the construction, converting it into a City controlled project. Consequently, the City paid funds pursuant to the City's contractual obligations with Spiess Construction, and as the funds sought are not for payment of the [city as successor]'s enforceable obligation, [the department] is correct in its denial of the request."

In March 2016, the trial court issued its order denying the writ petition and dismissing the complaint for declaratory and injunctive relief based on its earlier ruling and entered judgment in favor of the department. This timely appeal followed.

B

The Avon/Dakota Neighborhood Revitalization Project

The Avon/Dakota neighborhood is a multifamily residential neighborhood that is one of the city's most blighted areas. To revitalize that neighborhood, on June 22, 2010 the authority entered into a revitalization agreement with Related (the revitalization agreement), under which the authority and Related (referred to in the agreement as Developer) were to "jointly and cooperatively prepare a revitalization plan for th[e] neighborhood" and implement that plan. The revitalization agreement recited that "[p]ursuant to one or more separate cooperation agreements between or among the Authority, the City of Anaheim, . . . and/or the Anaheim Redevelopment Agency, . . . to be considered and action taken concurrently with this Revitalization Agreement, it is anticipated that the Authority will be allocated by the City and/or by the Agency certain federal, state, and local funds that will be authorized to be expended to carry out this Revitalization Agreement and provide financial assistance for the Project along with preparation and implementation of the Plan." With respect to the agency, the agreement stated that the sources of the anticipated funds to be provided "may include . . . monies from the Agency's Low and Moderate Income Housing Fund ('Housing Fund')" and "such other funds as may be allocated by . . . Agency to Authority." The revitalization agreement also recited that "Agency receives tax increment revenues pursuant to Section 33670(b) of the [California Community Redevelopment Law] and is required to deposit no less than thirty percent (30%) of the tax increment revenues allocated to Agency into Agency's Low and Moderate-Income Housing Fund ('Housing Fund') pursuant to Sections 33333.10, 33333.11, 33334.2 and 33334.6 of the [California Community Redevelopment Law] and to use such funds in order to increase, improve, and preserve the community's supply of low and moderate-income housing available at an affordable housing cost."

The revitalization agreement went on to specify that the authority would provide up to $4.8 million for the preparation and implementation of the revitalization plan. The agreement expressly identified the city and the agency as "intended third party beneficiaries of this Revitalization Agreement, with full right, but no obligation, to enforce the terms hereof." The agreement further provided that "[t]his Revitalization Agreement (together with the other Authority Documents) contains the entire agreement between Authority and Developer with respect to the Properties, and all prior negotiations, understandings and agreements are superseded by this Revitalization Agreement and such other Authority Documents. No modification of any Authority Document (including waivers of rights and conditions) shall be effective unless in writing and signed by the Party against whom enforcement of such modification is sought, and then only in the specific instance and for the specific purpose given." The term "Authority Documents" was defined to mean "this Revitalization Agreement and any and all Implementation Agreements entered into in multiple Phases of revitalization of the Avon/Dakota Neighborhood pursuant hereto."

A week later, on June 28, 2010, the authority, the city, and the agency entered into a cooperation agreement for the funding of the Avon/Dakota revitalization project (the funding agreement). Like the revitalization agreement, the funding agreement noted the agency's obligation to set aside "a certain portion" of its tax increment funding for low and moderate-income housing costs. The funding agreement referred to these funds as "the 'Housing Set-Aside Funds.' " The funding agreement then recited the parties' intent to provide for the city to transfer certain funds to the authority, and for the agency to transfer "certain Housing Set-Aside funds" to the authority, and for the authority to use those funds to implement the revitalization agreement. The funding agreement then provided that the city would transfer up to $3.759 million to the authority, while the

agency would transfer up to $1.041 million.[11] The authority agreed to impose such conditions, covenants, and restrictions in the implementation of the project "as the Redevelopment Agency would be required to impose with respect to the use of Housing Set-Aside Funds under the California Community Redevelopment Law."

On January 31, 2011, the authority and the agency entered into a further cooperation agreement for additional funding of the Avon/Dakota revitalization project (the additional funding agreement). The additional funding agreement recited that the authority and the agency desired to provide for the agency to transfer additional "Housing Set-Aside Funds" to the authority and for the authority to use those additional funds to implement the revitalization agreement. The additional funding agreement then provided that the agency would transfer up to $15 million to the authority, and the authority would use that money to implement the revitalization agreement. The additional funding agreement further provided that "[t]he payment obligation of the Redevelopment Agency hereunder shall be made, at the option of the Redevelopment Agency, from the tax increment revenues of Anaheim's Merged Redevelopment Project Area, bond proceeds from Anaheim's Merged Redevelopment Project, inter-fund-transfer, and/or any other funds of the Redevelopment Agency legally available therefor. The payment obligation of the Redevelopment Agency hereunder does not constitute a pledge of any particular funds and is and shall be subordinate to any pledge or other commitment of the Agency made in connection with any Redevelopment Agency bonds, now or hereafter issued."[12]

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[11] The total amount of funding committed to the authority by the city and the agency under the funding agreement was equal to the total amount of funding the authority promised to Related in the revitalization agreement for the preparation and implementation of the revitalization plan.

[12] Hereafter, references to the funding agreement encompass the additional funding agreement as well (unless otherwise noted).

After the additional funding agreement was signed, the authority and Related entered into a written amendment to the revitalization agreement (the amendment to the revitalization agreement). After noting that the funding for the project had been increased by $15 million, the amendment to the revitalization agreement specified that the authority would provide up to $19.8 million for the preparation and implementation of the revitalization plan. The amendment to the revitalization agreement also added a funding schedule and provided that the authority would make moneys available according to that schedule.[13] Under the schedule, the authority was to make $1,113,034 available to Related in fiscal year 2010-2011 (which the schedule noted had already been expended for the acquisition of two properties), $2.5 million a year for each of the eight fiscal years after that, and $1,186,966 for the fiscal year from 2018-2019.[14]

In the first two ROP cycles (through the fiscal period ending December 31, 2012), the city as successor requested, and the oversight board and the department approved, a total disbursement of $5,315,700 from the fund for use in funding the Avon/Dakota revitalization project. In the ROP schedule the city as successor prepared in August 2012 for the January 2013 through June 2013 fiscal period, the city as successor requested $1,989,227 from the fund with respect to the Avon/Dakota revitalization project. In October 2012, the department approved a small portion of the requested amount, but denied the rest based on its understanding that "contracts for these line items were

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[13] Specifically, the amendment to the revitalization agreement added a new section 3.2 to the revitalization agreement that provided as follows: "Authority shall make moneys available for the acquisition of Properties and the planning and implementation of the Plan pursuant to the Revitalization Agreement (as amended by this First Amendment) in accordance with the Authority Funding Schedule for the Avon/Dakota Neighborhood Revitalization Plan, attached hereto as Exhibit C and incorporated herein ('Authority Funding Schedule')."

[14] Hereafter, references to the revitalization agreement are to that agreement as amended (unless otherwise noted).

awarded after June 27, 2011." Following the meet and confer process, in December 2012, the department confirmed its denial of the requested distribution on the ground that the revitalization agreement was between the authority and a third party, and the agency was not a party to that agreement. The department further stated, "Section 'M' of the [revitalization agreement] states that pursuant to separate cooperation agreements, the Authority was anticipated to be allocated funds from the City and/or the former RDA. Additional documents do not support the amount claimed on the ROPS . . . ; therefore, Finance determines that this does not create an enforceable obligation on the former RDA. In addition, any cooperation agreements entered would not be considered enforceable pursuant to HSC section 34171(d)(2). Therefore, the items are not enforceable obligations."

Given the department's determination that payments for the Avon/Dakota revitalization project were not for enforceable obligations, the city as successor did not seek any further distribution for that purpose in the next four ROP cycles, and instead the project proceeded with other available funds. In June 2013, however, plaintiffs included a claim related to the denial of funding for the Avon/Dakota revitalization project in this mandamus action. Plaintiffs alleged that Related was an intended third party beneficiary of the agency's obligation to make payments to the authority under the funding agreement and that the revitalization agreement and the funding agreement "must be read together as a single contract between and among all of the parties thereto." Plaintiffs contended that because "Related is a party to and third party beneficiary under the Avon/Dakota Cooperation Agreement and Avon/Dakota Neighborhood Revitalization Agreement and said agreements must be read together as a single contract . . . , those agreements do not constitute agreements 'between the city . . . that created the redevelopment agency and the former redevelopment agency' within the meaning of Health & Safety Code §34171(d)(2)." With respect to this claim, plaintiffs sought a writ compelling the department to set aside its previous actions and determinations and to

"issue a formal written determination and directive that . . . the Avon/Dakota Cooperation Agreement and Avon/Dakota Neighborhood Revitalization Agreement . . . are enforceable obligations . . . eligible for payment from the . . . [f]und" and that the city as successor is "entitled to an allocation of moneys from the . . . [f]und in conjunction with future ROPS to the extent [the city as successor] places such agreements on the ROPS with a demand for payment and funds are available in the . . . [f]und to pay the amounts so requested."

In February 2015, the city as successor once again sought a distribution from the fund for use in funding the Avon/Dakota revitalization project. In April 2015, the department again denied that distribution because the agency was not a party to the revitalization agreement.

As we have previously noted, the hearing on plaintiffs' writ petition was eventually set for January 2016. In their memorandum, plaintiffs argued that subdivision (d)(2) of section 34171, which excludes from the definition of "enforceable obligation" "any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency," did not apply here because pursuant to Civil Code section 1642 the revitalization agreement and the funding agreement must be construed as a single contract, to which Related was a party, thereby taking the contract out of that limiting provision.[15] Plaintiffs also argued that "Related's rights under the [revitalization agreement] would be obliterated unless [the department's] denial of RPTTF funding is overturned" and thus reversal of the department's decision was necessary to avoid the unconstitutional impairment of Related's contract rights.

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[15] "Several contracts relating to the same matters, between the same parties, and made as parts of substantially one transaction, are to be taken together." (Civ. Code, § 1642.)

In opposition, the department argued that the revitalization agreement and the funding agreement were *not* a single contract, the cooperation agreement was not an enforceable obligation, and the department's denial of RPTTF funding did not violate Related's rights under the contracts clauses of the federal and state Constitutions.

In its ruling on submitted matter issued in February 2016, the trial court concluded that Related was not a party to the funding agreement such that it could enforce payment from the agency to the authority, and because the revitalization agreement and the funding agreement were not between the same parties, they could not be treated as a single contract under Civil Code section 1642. The court further concluded that it did "not need to address [plaintiffs'] 'impairment of contracts' arguments, as Related has no rights under the [funding agreement]."

As noted above, plaintiffs timely appealed from the resulting judgment in favor of the department.

DISCUSSION

I

The Parking And Alley Improvements At The Packing District Project

A

The Loan Agreement Between The City And The City As Successor Gave Rise To An Enforceable Obligation

On appeal, plaintiffs contend the city as successor is entitled to money from the fund to repay the loan proceeds used to construct the parking and alley improvements on the packing district project. According to plaintiffs, former subdivision (h) of section 34173 "did *not* require the City to disburse the loan proceeds to the [city as successor] so that the [city as successor] could contract with Spiess. . . . Loan agreements, it must be emphasized, *typically* involve the lender disbursing funds to a party other than the borrower. . . . If the Legislature had intended that the definition of 'loan' as used in

[former] §34173(h) should have a narrower meaning it easily could have said so. It did not."

In response, the department argues -- as it did in the trial court -- that "[t]he construction agreement between the City and Spiess is not an enforceable obligation because it does not include any indebtedness incurred by the [city as successor]." That argument goes nowhere, however, because the city as successor did not seek money from the fund to make payments due under the construction contract with Spiess. Rather, the city as successor sought money from the fund to make payments due under *the loan agreement* -- that is, to pay back to the city the amounts the city paid the construction company under the construction contract for the construction of the parking and alley improvements the agency was obligated to provide under the LAB agreement. Thus, the pertinent question here is not whether the construction contract between the city and Spiess was an enforceable obligation, but rather whether the loan agreement between the city and the city as successor gave rise to an enforceable obligation.

As we have seen, former subdivision (h) of section 34173 provided as follows: "The city, county, or city and county that authorized the creation of a redevelopment agency may loan or grant funds to a successor agency for administrative costs, enforceable obligations, or project-related expenses at the city's discretion, but the receipt and use of these funds shall be reflected on the Recognized Obligation Payment Schedule or the administrative budget and therefore are subject to the oversight and approval of the oversight board. An enforceable obligation shall be deemed to be created for the repayment of those loans."

Here, the city loaned funds to the city as successor for an enforceable obligation when, pursuant to the terms of the loan agreement, the city as successor contracted with Spiess and paid for the construction of the parking and alley improvements the agency was legally obligated to provide under the LAB agreement (which no one disputes was an

enforceable obligation). Thus, at first glance at least, it does appear that former subdivision (h) of section 34173 was satisfied here.

The department contends, however, that the statute was *not* satisfied because "the [city as successor] never received any money from the City, and therefore never had a repayment obligation under the . . . loan agreement." According to the department, because former subdivision (h) of section 34173 provides that "[a]n enforceable obligation shall be deemed to be created for the *repayment* of those loans" (italics added), a repayment obligation is a necessary requirement of the statute, and there was no such obligation here.

We disagree. To say that the city as successor "never had a repayment obligation under the . . . loan agreement" because "the [city as successor] never received any money from the City" is to ignore the terms of the loan agreement. As we have seen, the loan agreement specifically provided that the city as successor would "repay the City Loan to City" upon receiving money from the fund to do so. It is of no matter that the loan proceeds were not first paid to the city as successor, so that the city as successor could pay them to the construction company, and it is likewise of no matter that the city as successor was not a party to the construction contract. There is no dispute that the *only* reason the city entered into the contract with Spiess in the first place was because the department had thwarted (rightly or wrongly) the city as successor's earlier attempts to obtain money from the fund to pay for the construction of the parking and alley improvements that the agency was obligated to provide under the terms of the LAB agreement, and the city wanted to "assist the [city as successor] by providing a loan to the [city as successor] . . . to enable the [city as successor] . . . to pay for the construction of the Parking and Alley Improvements . . . as required by the LAB" agreement, which qualified as an enforceable obligation. That the loan agreement allowed the city to contract with the construction company and disburse the loan proceeds directly to the construction company did not alter the fundamental *substance* of the transaction as a

loan, under which the city was lending money to the city as successor with the right to be paid back. (See Civ. Code, § 3528 ["The law respects form less than substance"].) Just as the average person who borrows money to buy a house or a car never personally receives the borrowed funds, the city as successor borrowed money from the city here even though the city as successor did not receive the borrowed funds, but instead agreed the city could pay those funds directly to the construction company.

As for the department's backup assertion that loan agreement did not give rise to an enforceable obligation because the city as successor's "obligation to repay the loan was contingent on [the department] approving the City-Spiess construction contract," "which never occurred," we are not persuaded. The loan agreement did provide that "Successor Agency shall repay the City Loan to City promptly upon receipt of RPTTF moneys for the ROPS 13-14A period, and for and during each subsequent ROPS periods, if necessary, to repay the City Loan in full; provided however, that this Agreement and the Parking and Alley Construction Contract shall have been approved by the DOF as enforceable obligations on ROPS 13-14A (and each subsequent ROPS, as applicable)." However, the provision relating to the department approving the contract with Spiess as an enforceable obligation appears to have been included in contemplation of the possibility that the city as successor might be made a party to that contract. This possibility was also suggested in the recitals in the loan agreement, which provided that "the Successor Agency and City desire to enter into a construction contract with Spiess Construction Co. Inc. ('Contractor') for the Parking and Alley Improvements." Ultimately, however, the city as successor was *not* made a party to the construction contract, and thus there was no occasion for the department to approve that contract as an enforceable obligation during the ROP cycle. Under these circumstances, we do not construe the absence of that unnecessary approval as an unfulfilled condition precedent to the obligation of the city as successor to pay back the loan the city made by paying the

construction company to complete the parking and alley improvements the agency was legally bound to provide under the terms of the LAB agreement.

In summary, we conclude the loan agreement between the city and the city as successor gave rise to an enforceable obligation, and the trial court erred in concluding otherwise.

B

The City As Successor's Failure To Obtain Prior Approval From The Oversight Board To Enter Into The Loan Agreement With The City Did Not Make The Agreement An Unenforceable Obligation

As we have noted already, in opposing the relief plaintiffs sought in the trial court pertaining to the denial of funding to repay the loan from the city pertaining to the parking and alley improvements, the department argued that the city as successor did not obtain oversight board approval and submit that approval to the department *before* entering into the loan agreement with the city. On appeal, plaintiffs contend that even if prior approval *was* required (which they dispute), this amounts to no more than "hyper-technical non-prejudicial error" and thus cannot justify the trial court's denial of relief on this claim.

In a footnote in its respondent's brief, the department contends we should "remand this matter to the trial court for review of" this issue because "[t]he trial court did not address this argument." In support of this suggestion of remand, however, the department offers no citation to authority, and we are not aware of any authority that would justify the department's request. "It is judicial action and not judicial reasoning which is the subject of review." (*El Centro Grain Co. v. Bank of Italy, etc.* (1932) 123 Cal.App. 564, 567.) Thus, it was incumbent on plaintiffs in this appeal to show that the trial court erred in the action that court took on their mandamus petition, namely, denying them relief on their claim relating to the city as successor's claim for money from the fund to repay the loan from the city. To show error in that judicial action, plaintiffs in

their opening brief understandably sought to refute *all* of the arguments the department offered in its opposition in the trial court, including the argument that plaintiffs should get no relief because the city as successor did not obtain prior approval from the oversight board to enter into the loan agreement with the city, and the department had every opportunity to respond on that issue in its respondent's brief. Thus, the issue is properly before us for decision in determining whether the trial court's denial of writ relief amounted to judicial error, and there is no reason to remand the case to the trial court for that court to address the issue in the first instance. Accordingly, we turn to this issue.

The department appears to contend that the trial court's denial of writ relief was proper given the failure of the city as successor to obtain approval of the oversight committee *before* entering into the loan agreement with the city because that failure prevented the oversight board from exercising its supervisory power over the city as successor. We disagree. It is true there are provisions in the dissolution law that require a successor agency to obtain approval of the oversight committee *before* entering into an agreement with the municipality that created the redevelopment agency the successor agency succeeded. Subdivision (a) of section 34178 provides "that a successor entity wishing to enter . . . into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so . . . upon obtaining the approval of its oversight board." Similarly, section 34180 identifies various "successor agency actions" that "shall first be approved by the oversight board," and included in those actions is "[a] request by the successor agency to enter . . . into an agreement with the city, county, or city and county that formed the redevelopment agency that it is succeeding pursuant to Section 34178." (§ 34180, subd. (h).) We agree with the department (and disagree with plaintiffs) that these provisions require a successor agency to obtain oversight board approval *before* entering into a contract with the municipality that created the redevelopment agency the successor agency succeeded. Where we part

ways with the department, however, is with respect to the department's suggestion that the failure to obtain prior approval necessarily justifies the denial of any request for money from the fund arising from an agreement that was not approved in advance.

The department contends this should be the result because the failure to obtain prior approval prevents the oversight board from exercising its supervisory power over the successor agency. That is not actually true, however, particularly with respect to a *loan* agreement under former subdivision (h) of section 34173. This is so for two reasons. First, with respect to *any* agreement that an oversight board may approve between a successor agency and the municipality that formed the redevelopment agency the successor agency succeeded, subdivision (h) of section 34180 provides that "[a]ny actions to establish" such agreements "are invalid until they are included in an approved and valid Recognized Obligation Payment Schedule." Second, with respect to loan agreements in particular, former subdivision (h) of section 34173 provided that "[t]he city, county, or city and county that authorized the creation of a redevelopment agency may loan or grant funds to a successor agency for administrative costs, enforceable obligations, or project-related expenses at the city's discretion, but the receipt and use of these funds shall be reflected on the Recognized Obligation Payment Schedule or the administrative budget and therefore are subject to the oversight and approval of the oversight board." In other words, under the dissolution law, even if a loan agreement between a successor agency and the municipality that created the redevelopment agency the successor agency succeeded is not approved in advance, the oversight board is still able to exercise its supervisory power over the successor agency with regard to the loan agreement because: (1) any actions to establish that agreement are invalid until the agreement is included in an approved and valid ROP schedule; and (2) receipt and use of the borrowed funds must be reflected on an ROP schedule or administrative budget. In these ways, the loan agreement is subject to the oversight and approval of the oversight

board even if the successor agency failed to obtain the oversight board's approval before entering into the agreement.

Here, the oversight board approved ROP schedules that included requests for money from the fund to pay back the amount due the city under the loan agreement on multiple occasions, and the oversight board approved the loan agreement separately on one occasion -- albeit after the city as successor entered into that agreement. In this manner, the oversight board exercised its supervisory power over the city as successor pursuant to the terms of the dissolution law. Thus, contrary to the department's argument, the failure of the city as successor to obtain *prior* approval from the oversight board before entering into the loan agreement did not prevent the oversight board from exercising its supervisory power over the city as successor with respect to this particular transaction and thus did not give the department a valid reason to deny the city as successor's request for money from the fund to repay the loan.

For the foregoing reasons, we conclude the trial court erred when it denied plaintiffs' petition for a writ of mandate pertaining to the parking and alley improvements at the packing district project.

II

The Avon/Dakota Neighborhood Revitalization Project

A

Integration Of The Revitalization Agreement And The Funding Agreement Is Immaterial To Plaintiffs' Impairment Argument

On appeal, plaintiffs contend that "[u]nder settled principles of law, the [revitalization agreement and the funding agreement] must be viewed as constituting a single integrated contract." They then argue that "retroactive invalidation of [that] Agreement under §34171(d)(2) would deny Related over $10 million of the $16,041,000 in [agency] funds promised to it in the Revitalization Agreement and thereby unconstitutionally impair its vested contract rights." (See U.S. Const., art. I, § 10; Cal.

Const., art. 1, § 9.) Given this result, they contend, "§34171(d)(2) must be interpreted as *not* to apply when the invalidation of a multi-party contract to which a city, its former redevelopment agency, and a private person or entity are parties would substantially impair the private person's or entity's contract rights."[16] Plaintiffs contend this result is consistent with the rule that, if possible, a statute should be interpreted in a manner that is consistent with, rather than in conflict with, the Constitution. (See *City of Cerritos v. State of California* (2015) 239 Cal.App.4th 1020, 1035.)

The problem with plaintiffs' argument is that they have attempted to frame it as an issue of statutory interpretation, when what they are really raising is an "as applied" constitutional challenge to the statute. It is true that "[i]f a statute is susceptible of two constructions, one of which will render it constitutional and the other unconstitutional in whole or in part, or raise serious and doubtful constitutional questions, the court will adopt the construction which, without doing violence to the reasonable meaning of the language used, will render it valid in its entirety, or free from doubt as to its constitutionality, even though the other construction is equally reasonable." (*Miller v. Municipal Court* (1943) 22 Cal.2d 818, 828.) What that rule means, however, is that if a particular construction of a statute will render the statute unconstitutional or raise serious questions about the constitutionality of the statute *on its face* -- that is, without regard to "its application to the particular circumstances of an individual" (*Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1084) -- then that construction is to be avoided if reasonably possible. That does not mean, however, that we ought to adopt a particular interpretation

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16 Recall that subdivision (d)(2) of section 34171 excepts from the definition of " 'enforceable obligation' " "any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency."

of a statute applicable to all cases because *in some circumstances* a constitutional violation may result from that interpretation.

Here, plaintiffs do not contend that if subdivision (d)(2) of section 34171 is applied to every contract in which a private third party is involved along with a former redevelopment agency and the municipality that formed it, an unconstitutional impairment of contract will necessarily result every time, nor do they contend that there is a serious question as to whether a constitutional violation will result every time. Instead, they ask us to interpret the statute only so that it does not apply "when the invalidation of a multi-party contract to which a city, its former redevelopment agency, and a private person or entity are parties would substantially impair the private person's or entity's contract rights." That is nothing more and nothing less than an "as applied" challenge to the constitutionality of the provision, because under plaintiffs' argument the statute should be deemed unconstitutional only when the application of the statute "would substantially impair the private person's or entity's contract rights." As will become apparent below, the determination of whether contract rights have been substantially impaired by legislation depends on the specific contract at issue. So the real question here is not whether subdivision (d)(2) of section 34171 should be interpreted so that it is not facially unconstitutional, or to avoid a serious question of facial unconstitutionality, but rather whether the statute violates the contract clauses of the federal and state Constitutions *in particular circumstances*. Thus, we will address plaintiffs' argument as an "as applied" challenge to the constitutionality of the statute under the facts presented by this case.

In addressing that challenge, the question the trial court found dispositive -- whether the revitalization agreement and the funding agreement are to be treated as a single integrated contract or as separate contracts -- is immaterial. This is so because even if plaintiffs are wrong on the integration issue and the two contracts are separate, it is undisputed that subdivision (d)(2) of section 34171 would operate to invalidate the

funding agreement to the extent that agreement obligated the agency to provide up to $16.041 million to the authority to fund the Avon/Dakota revitalization project. And because the revitalization agreement and the funding agreement are unquestionably *interdependent* -- because the revitalization agreement clearly contemplated that the authority would obtain the funding the authority promised to give Related from the city and the agency pursuant to the funding agreement -- even if the contracts are separate, the issue still arises as to whether the invalidation of the funding agreement resulted in an unconstitutional impairment of the contractual rights of Related under the revitalization agreement. Thus, we need not answer the question of whether the two agreements were a single integrated contract or two separate contracts. The significant question for us is whether the invalidation of the agency's promise to provide funds to the authority, so that the authority could provide them to Related, unconstitutionally impaired Related's contractual rights.

In a petition for rehearing, the department contends the question of integration is *not* immaterial because plaintiffs' constitutional argument cannot succeed unless there is only a single contract. In the department's view, "the invalidation of one agreement [cannot] impair a separate, non-integrated agreement involving different parties and a different transaction," and here "[t]he [funding] agreement and the [r]evitalization [a]greement involve two separate transactions serving two different functions.

We find no merit in this argument. First, the funding agreement and the revitalization agreement are anything but separate. The only reason the funding agreement exists at all is to provide a funding mechanism for the revitalization agreement. Thus, the two agreements do not, by any stretch of the imagination, "serve separate purposes," as the department contends. The purpose of *both* agreements is to facilitate the revitalization of the Avon/Dakota neighborhood. The agreements are entirely interdependent, not separate.

Second, the authority on which the department relies for this argument -- *Fuentes v. Fuentes* (1961) 188 Cal.App.2d 715 -- is entirely inapposit. In *Fuentes*, the parties to a marital dissolution proceeding entered into a property settlement agreement that, among other things, provided for the husband to pay the wife $75 per month in child support for each of the parties' two children. (*Id.* at p. 717.) The trial court later entered an order reducing the husband's child support obligation to $55 per month for each child. (*Id.* at p. 716.)

On appeal from the order modifying child support, the wife argued that the modification order was an unconstitutional impairment of the obligation of a contract. (*Fuentes v. Fuentes, supra,* 188 Cal.App.2d at p. 717.) The appellate court disagreed, explaining that " '[t]he adjustment of the property rights of the parties and the agreement to pay . . . for the support of the minor child[ren] are separate and severable provisions of the contract.' " (*Ibid.*)

The fact that child support and property rights are "separate and severable" in the context of a marital dissolution proceeding has no bearing whatsoever on whether the funding agreement and the revitalization agreement in this case were also "separate and severable." As we have explained, they were not; instead, they were entirely interdependent. And thus the question remains whether the invalidation of the funding agreement between the agency and the authority unconstitutionally impaired Related's rights under the revitalization agreement. It is to that question that we now turn.[17]

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[17] Because the trial court did not reach this issue, the department argues (once again) that we should "remand this case to allow the trial court an opportunity to address [the] contract clause argument." Again, however, the department offers no authority, and no reasoning, in support of this argument. Because the issue is one of law on a record the parties had every opportunity to fully develop, we will address it.

B

The Statutory Invalidation Of The Funding Agreement With Respect To The Agency Results In An Unconstitutional Impairment Of Related's Rights Under The Revitalization Agreement

"The contract clauses of both the federal and California Constitutions prohibit a state from passing laws impairing the obligation of contracts. (U.S. Const., art. I, § 10, cl. 1; Cal. Const., art. I, § 9.) Pursuant to these clauses, the state's ability to modify its own contracts with other parties, or contracts between other parties, is limited. [Citations.] [¶] Not every impairment runs afoul of the contract clauses, however. ' " The constitutional prohibition against contract impairment does not exact a rigidly literal fulfillment; rather, it demands that contracts be enforced according to their 'just and reasonable purport"; not only is the existing law read into contracts in order to fix their obligations, but the reservation of the essential attributes of continuing governmental power is also read into contracts as a postulate of the legal order.' " (*Teachers' Retirement Bd. v. Genest* (2007) 154 Cal.App.4th 1012, 1026-1027.)

The first question under the contract clauses is whether the obligations of any contract have actually been impaired. (See *City of Torrance v. Workers' Comp. Appeals Bd.* (1982) 32 Cal.3d 371, 377 (*City of Torrance*).) " 'The obligations of a contract are impaired by a law which renders them invalid, or releases or extinguishes them . . . .' " (*Ibid.*) But complete invalidation, release, or extinction of a contractual obligation is not required for there to be an impairment. In addition, "impairment . . . has been predicated of laws which without destroying contracts derogate from substantial contractual rights." (*Home Building & Loan Asso. v. Blaisdell* (1934) 290 U.S. 398, 431 [78 L.Ed. 413, 425].)

In its respondent's brief, the department contends "Related has no relevant contract rights to be impaired" here, but then fails to explain how this could be so, when (1) the authority promised to provide Related with up to $19.8 million for the

Avon/Dakota revitalization project; (2) the revitalization agreement expressly anticipated that the authority would get the bulk of those funds -- $16.041 million -- from the agency pursuant to the funding agreement; and (3) subdivision (d)(2) of section 34171 (as well as subdivision (a) of section 34178) rendered the funding agreement unenforceable. Not only did Related have "relevant contract rights to be impaired," but its contract rights *were* impaired, because the invalidation of the funding agreement destroyed the funding mechanism that in large part made the revitalization agreement possible in the first place.

To the extent the department argues, in support of its assertion that "Related has no relevant contract rights to be impaired," that " '[A] statute does not violate the Contract Clause simply because it has the effect of restricting, or even barring altogether, the performance of duties created by contracts entered into prior to its enactment,' " the department is mixing apples and oranges. At this point, we are not concerned with whether any impairment that occurred violated the contract clauses, but with whether there was any impairment in the first place. Those are two distinct questions. As our Supreme Court has explained, "a finding that the state in the exercise of its police power has abridged an existing contractual relationship does not in and of itself establish a violation of the contract clause. It is the beginning, not the end of the analysis. A finding of impairment merely moves the inquiry to the next and more difficult question -- whether that impairment exceeds constitutional bounds." (*City of Torrance*, *supra*, 32 Cal.3d at p. 377.) Thus, while the department is correct to the extent it can be understood to argue that abridgement of a contractual relationship does not necessarily violate the contract clause, the department cites no authority for the implied assertion that the abridgement of a contractual relationship is not an impairment of a contractual obligation.

This case is distinguishable from *City of Galt v. Cohen* (2017) 12 Cal.App.5th 367, in which this court found no impairment of contract. In that case, City of Galt contended that "not allowing it to use . . . tax allocation bond proceeds to fund [projects

pursuant to a cooperation agreement with City of Galt's former redevelopment agency] unconstitutionally impairs contracts, namely the obligations of the bondholders." (*Id.* at p. 378.) This court concluded that if City of Galt was actually claiming that its own constitutional rights were being impaired, "then it has no standing because a municipality may not complain that the state is impairing its contract." (*Ibid.*) If, on the other hand, City of Galt was attempting to assert the bondholders' rights, "then City of Galt has no standing to assert the rights of others." (*Ibid.*) In any event, the court concluded, "City of Galt makes no attempt to establish that bondholders will not be paid under the terms of the bonds," and because "the former redevelopment agency had no contractual obligation to the bondholders to use the bond proceeds to fund [the projects under the cooperation agreement], [the department] did not impair those contracts (the bond agreements) when it determined that the bond proceeds could not be used to fund [those] projects." (*Id.* at pp. 378, 379)

In contrast to the situation in *City of Galt*, here plaintiffs are not asserting that any vested contractual rights of a municipality or of absent bondholders are being impaired. Instead, they are asserting that the rights of Related -- a private developer and a party to this proceeding -- are being impaired. Thus, *City of Galt* does not govern here.

In a petition for rehearing, the department argues that Related cannot assert that its contractual rights were impaired by the invalidation of the funding agreement because "no statutory or contractual provision" *required* the authority to use funds from the agency to fulfill the authority's obligation to Related under the revitalization agreement. According to the department, because "the loss of [agency] funds to be provided in the [funding] [a]greement d[id] not extinguish the [authority's] duty [to Related] to provide funding under the [r]evitalization [a]greement," and "because the [authority] still has a duty to perform under the [r]evitalization [a]greement, Related . . . cannot assert impairment of its contractual rights."

We are not persuaded. In substance, the department's argument is that because the invalidation of the funding agreement did not invalidate, release, or extinguish the authority's contractual obligation under the revitalization agreement to provide funding to Related for the Avon/Dakota revitalization project, there was no impairment of Related's contractual rights under the revitalization project. It is clear from the case law, however, that a total invalidation, release, or extinguishment of a contractual obligation is not the sine qua non of an impairment of contract for purposes of the contract clauses. As we have noted, "impairment . . . has been predicated of laws which without destroying contracts derogate from substantial contractual rights." (*Home Building & Loan Asso. v. Blaisdell*, *supra*, 290 U.S. at p. 431 [78 L.Ed. at p. 425].)

Related's right to receive up to $19.8 million from the authority to prepare and implement the plan for the Avon/Dakota revitalization project is nothing if not a substantial contractual right. Moreover, there can be no doubt that the authority and Related both understood and intended that the authority would get the bulk of the $19.8 million -- $16.041 million -- from the agency pursuant to the funding agreement. This most readily appears from the terms of the amendment to the revitalization agreement. That amendment specifically recited that under the original funding agreement, the agency "agreed to transfer to [a]uthority One Million Forty-One Thousand Dollars ($1,041,000) from [the a]gency's Housing Set-Aside funds" and the "[a]uthority agreed to use such transferred funds to implement the [r]evitalization [a]greement." The amendment then noted that the agency and the authority had entered into the additional funding agreement, which had increased "the funding available to [the a]uthority for expenditures under the [r]evitalization [a]greement by an additional Fifteen Million Dollars." And the additional funding agreement specifically provided for the "[a]gency's transfer of additional Housing Set-Aside funds to the . . . [a]uthority" in the sum of $15 million.

Thus, there can be no doubt that the bulk of the funds the authority committed to Related for the Avon/Dakota revitalization project were to come to the authority from the agency under the funding agreement, and indeed the department points to nothing that contradicts that fact. That the authority may not have expressly *promised* to Related in the revitalization agreement what the specific source of the funds to be made available under the agreement would be does not, in our view, have a material impact on whether an impairment of Related's contractual rights occurred here. The express understanding of the parties that the bulk of the funds would come from the agency, along with the absence of any evidence of any other source of funds available to the authority that could have supplied those funds, persuades us that when the funding agreement was invalidated, Related's rights under the revitalization agreement were impaired because the authority no longer had access to the specific source of funds that everyone understood and agreed would be used to fuel the Avon/Dakota revitalization project.

Having concluded that subdivision (d)(2) of section 34171 operated here to impair Related's contractual rights under the revitalization agreement, we turn to the next question in a contracts clause analysis -- whether that impairment exceeded constitutional bounds. "Legislation adjusting the rights and responsibilities of contracting parties must be upon reasonable conditions and of a character appropriate to the public purpose justifying its adoption." (*United States Trust Co. v. New Jersey* (1977) 431 U.S. 1, 22 [52 L.Ed.2d 92, 109-110] (*United States Trust*).) "The extent of impairment is certainly a relevant factor in determining its reasonableness." (*Id.* at p. 27 [52 L.Ed.2d at p. 113].) It has also been said that "*United States Trust* places the justification for an impairment of a contractual funding obligation under the light of strict scrutiny." (*California Teacher's Assn. v. Cory* (1984) 155 Cal.App.3d 494, 511.) "In considering the standard applicable to such a *fiscal* obligation the court said: 'As with laws impairing the obligations of private contracts, an impairment may be constitutional if it is reasonable and necessary to serve an important public purpose. In applying this standard, however, complete

deference to a legislative assessment of reasonableness and necessity is not appropriate because the State's *self-interest* is at stake. A governmental entity can always find a use for extra money, especially when taxes do not have to be raised. If a State could reduce its financial obligations whenever it wanted to spend the money for what it regarded as an important public purpose, the Contract Clause would provide no protection at all.' (Fns. omitted.)" (*Cory*, at p. 511, quoting *United States Trust*, *supra*, 431 U.S. at pp. 25-26 [52 L.Ed.2d at pp. 111-112].) Thus, "*United States Trust* rules out, as a permissible justification, a legislative purpose simply to expend the obligated money for a purpose deemed a better expenditure." (*Cory*, at p. 512.)

The department contends that the impairment of Related's contract rights "survives this constitutional challenge because [the department's] decisions here were based on a law that has a significant and legitimate public purpose." According to the department, "the State's interest in passing the Dissolution Law far exceeds any possible contractual interest lost by Related" because, essentially, the Legislature was seeking to address a financial emergency. Moreover, the department contends, "[t]he Legislature appropriately tailored the Dissolution Law to the public's interest, noting that state and local governments were facing declines in revenues and increased need for core governmental services."

We are not persuaded. The impairment here was unquestionably significant, because the Legislature rendered the funding agreement -- the mechanism by which the revitalization agreement was to be funded -- almost completely inoperative. While certainly *the city* was still bound to perform its funding obligation to the authority under the funding agreement, the city's funding obligation amounted to less than 20 percent of the total funding that was to be provided. The remaining 80 percent was the responsibility of the agency, but subdivision (d)(2) of section 34171 renders that funding obligation unenforceable.

More important, however, is that the state's justification for rendering the agency's funding obligation unenforceable is the perceived justification *Cory* says was ruled out by *United States Trust*, namely, to spend the money somewhere else that the Legislature deemed more worthy. As our Supreme Court noted in the opening sentence of *Matosantos*, the dissolution law was "intended to stabilize school funding by reducing or eliminating the diversion of property tax revenues from school districts to the state's community redevelopment agencies." (*Matosantos*, *supra*, 53 Cal.4th at p. 241.) Thus, the Legislature determined that the tax increment funds that previously went to redevelopment agencies to, among other things, increase the supply of affordable housing for low and moderate-income households, should instead go to school districts, to help reduce the burden on the state to provide state funds for schools. (See *id.* at pp. 242-252.) However laudable, under *Cory* and *United States Trust* this was not a permissible justification for impairing vested contractual rights like those that belonged to Related here.

Moreover, it should be noted that subdivision (d)(2) of section 34171 is not reasonably tailored to achieve its ostensible purpose. As plaintiffs contend in their reply brief, "when the Dissolution Law was adopted, the Legislature still saw fit to preserve all other redevelopment agency bond and contract obligations to private parties (see . . . §34171(d)(1)(A)-(E))," but Related's contractual rights were *not* preserved due to the circumstance that Related's funding was to come, not directly from the agency, but through the middleman of the authority. The department offers no valid reason for preserving the contractual rights of a private party that entered into a contract directly with a redevelopment agency, but destroying the contractual rights of a private party that instead entered into a contract with the city that created the redevelopment agency (or an entity treated as the equivalent of the city, like the authority here) that was to be funded pursuant to a related contract between the city and the agency the city created.

For the foregoing reasons, the Legislature's impairment of Related's contractual rights under the revitalization agreement by means of its invalidation of the funding agreement between the agency and the authority under subdivision (d)(2) of section 34171 (and subdivision (a) of section 34172) was unconstitutional and invalid. Accordingly, the trial court erred when it denied plaintiffs' petition for a writ of mandate pertaining to the funding of the Avon/Dakota revitalization project.

III

Prejudgment Interest

In the trial court, plaintiffs argued (briefly) that they were entitled to prejudgment interest under Civil Code section 3287, subdivision (a) "on the sums wrongfully withheld."[18] The department disagreed. The trial court never reached the issue because that court determined (erroneously) that plaintiffs were not entitled to any relief.

On appeal, plaintiffs assert that the city as successor is entitled to prejudgment interest, and they ask that our "ruling include a direction for the trial court, upon remand, to include an appropriate award of prejudgment interest in the writ of mandate and judgment to be entered." The department responds that the case should be remanded to the trial court for *that* court to determine whether plaintiffs are entitled to prejudgment interest. In reply, plaintiffs assert this is a "purely legal issue that should be resolved by this Court." In support of that assertion, they cite Code of Civil Procedure section 43 and *Pacific S. P. Co. v. U. S. Fidelity etc. Co.* (1921) 185 Cal. 515.

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[18] "A person who is entitled to recover damages certain, or capable of being made certain by calculation, and the right to recover which is vested in the person upon a particular day, is entitled also to recover interest thereon from that day, except when the debtor is prevented by law, or by the act of the creditor from paying the debt. This section is applicable to recovery of damages and interest from any debtor, including the state or any county, city, city and county, municipal corporation, public district, public agency, or any political subdivision of the state." (Civ. Code, § 3287, subd. (a).)

Section 43 of the Code of Civil Procedure provides (in relevant part) that "[t]he Supreme Court, and the courts of appeal, may affirm, reverse, or modify any judgment or order appealed from, and may direct the proper judgment or order to be entered, or direct a new trial or further proceedings to be had. *In giving its decision, if a new trial be granted, the court shall pass upon and determine all the questions of law involved in the case, presented upon such appeal, and necessary to the final determination of the case*." (Italics added.) Meanwhile, the court in *Pacific Sewer Pipe* held that "[w]here a case is determined upon an agreed statement of facts which discloses every fact essential to a correct judgment, and the trial court draws an incorrect conclusion therefrom, the correct judgment will be ordered upon a reversal." (*Pacific S. P. Co. v. U. S. Fidelity etc. Co., supra*, 185 Cal. at p. 519.) Essentially, plaintiffs rely on these authorities for the proposition that we should decide whether the city as successor is entitled to prejudgment interest on any sum wrongfully withheld by the department, rather than allowing the trial court to decide that issue in the first instance on remand, because the issue is one of law that we can decide just as easily as the trial court.

Accepting plaintiffs' invitation to us to address this issue under the foregoing authorities, we conclude the city as successor is *not* entitled to prejudgment interest. It is true that when a mandamus action is properly characterized as an action for "damages" within the meaning of Civil Code section 3287, the claimant may recover prejudgment interest when three conditions are satisfied: "(1) There must be an underlying monetary obligation; (2) the recovery must be certain or capable of being made certain by calculation; and (3) the right to recovery must vest on a particular day." (*Tripp v. Swoap* (1976) 17 Cal.3d 671, 682 & fn. 12, disapproved on other grounds in *Frink v. Prod* (1982) 31 Cal.3d 166, 180.) As we will explain, however, plaintiffs have not shown to our satisfaction that they fall within this rule.

The first issue is whether this case can properly be characterized as an action for "damages." For purposes of Civil Code section 3287, damages are the

"compensation . . . in money" that may be recovered from "the person in fault" by "[e]very person who suffers detriment from the unlawful act or omission of another." (Civ. Code, § 3281; see also *Union Pacific Railroad Co. v. Santa Fe Pacific Pipelines, Inc.* (2014) 231 Cal.App.4th 134, 198-199 [applying this definition of "damages" to Civil Code section 3287].) If this is an action for damages, then the department would have to be "the person in fault," the city as successor would have to be the "person who suffer[ed] detriment from the unlawful act or omission of" the department, and the city as successor would be entitled to recover "compensation . . . in money" from the department for the detriment suffered. But plaintiffs are not seeking a money judgment against the department in this case, or even a writ commanding the department to pay money to the city as successor. The department's role in this matter was to determine "the enforceable obligations and the amounts and funding sources of the enforceable obligations" (§ 34177, subd. (m)(1).) The department was *not* responsible for paying money to the city as successor, or even allocating money from the fund (or from any other source) to the city as successor; that was the role of the county auditor-controller. (See § 34183.) Thus, the writ relief to which plaintiffs are entitled here is a writ commanding the department to vacate its previous determinations denying the city as successor's claims for money from the fund to repay the loan from the city pertaining to the parking and alley improvements at the packing district project and to fund the Avon/Dakota revitalization project and to issue new determinations approving those claims. Under such a writ, the department will not be ordered to pay money to the city as successor as compensation for detriment the city as successor suffered from an unlawful act or omission of the department. In other words, the department will not be ordered to pay the city as successor "damages," and absent an award of damages, there can be no prejudgment interest under Civil Code section 3287.

As if that conclusion were not sufficient, the second issue is whether plaintiffs have shown that they have satisfied the three conditions that must be met for an award of

prejudgment interest even when the underlying action is properly characterized as one for damages, and plaintiffs lose on that issue, too. For the same reason plaintiffs have not shown that the relief they are entitled to here is an award of *damages* from the department, they have not shown that the department owes them an "underlying monetary obligation" on which an award of prejudgment interest could be based. The department's obligation was to approve the city as successor's claims for money from the fund, not to pay the city as successor money. The former is not a *monetary* obligation that would support an award of prejudgment interest.

Moreover, plaintiffs have not shown that they had a right to recover a sum certain (or a sum capable of being made certain by calculation) that vested on a particular day. The only assertion they offer on this condition is that the dissolution law "requires the Auditor-Controller to make ROPS payments to the Successor Agency each June 1 and January 2." But it is not clear to us that the city as successor necessarily had a right to receive all of the money it claimed on a particular date. Indeed, even in their petition for writ relief in this case, plaintiffs sought a writ commanding the department to issue a formal written determination and directive that, among other things, plaintiffs "are entitled to an allocation of moneys from the Trust Fund . . . to the extent . . .funds are available in the Trust Fund to pay the amounts . . . requested." If the city as successor's right to money from the fund on a particular day was dependent on the presence of money in that fund on that day, then we cannot say the city as successor had a right to recover that sum *on that day*, which is a prerequisite to an award of prejudgment interest.

For all of the foregoing reasons, we conclude plaintiffs are not entitled to prejudgment interest in this case.

IV

Relief

As we have concluded that the trial court erred in denying plaintiffs' petition for writ relief challenging the department's denial of the city as successor's claims for money

from the fund to repay the loan from the city pertaining to the parking and alley improvements at the packing district project and to fund the Avon/Dakota revitalization project, we must reverse the judgment. Because plaintiffs have not tried to suggest the terms of the writ to which they believe they are entitled, we will leave it to the trial court to determine in the first instance on remand, with the input of the parties as necessary, the appropriate terms of an order, judgment, and writ of mandate in this case. In that regard, it will be up to the trial court, with the input of the parties, to determine the proper resolution of plaintiffs' complaint for declaratory and injunctive relief.

DISPOSITION

The judgment is reversed, and the case is remanded to the trial court with instructions to vacate its order denying plaintiffs' petition for writ of mandate and dismissing plaintiffs' complaint for declaratory and injunctive relief and to enter a new order granting plaintiffs' writ petition consistent with this opinion and granting such other relief as the trial court may deem appropriate. Plaintiffs shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278(a)(2).)

/s/
Robie, J.

I concur:

/s/
Blease, Acting P.J.

DUARTE, J., Concurring and Dissenting

After reconsidering and reviewing this matter further in light of the rehearing petition and answer, I now respectfully dissent from Parts II and IV (in part) because I no longer believe the dissolution statutes worked to impair contracts as to the Avon/Dakota revitalization project. I concur in Part III, as to prejudgment interest. Because Part I was not challenged in the rehearing petition, I will concur in the result therein.[1]

BACKGROUND

On June 22, 2010, the City of Anaheim approved an agreement (dated for identification purposes June 1, 2010), between the Anaheim Housing Authority (Authority) and real party in interest The Related Companies of California LLC (Related) to improve (revitalize) what was characterized as the blighted Avon/Dakota neighborhood. The revitalization agreement provided that one or more "cooperation agreements" between Related and the Authority, the City of Anaheim (City), or the Anaheim Redevelopment Agency (RDA), would use federal, state, and local funds to "provide financial assistance for the Project along with preparation and implementation

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[1] My concerns regarding Part I include the implication in the relevant factual recitation that the Department acted improperly by changing its reasons for disapproving ROPS items. (Maj. opn., *ante*, at pp. 6-12.) As the City conceded in the trial court, a typical ROPS finding does not govern a subsequent ROPS decision. (See *City of Brentwood v. Campbell* (2015) 237 Cal.App.4th 488, 495 [ROPS decision included the caveat that " 'An item included on a future ROPS may be denied even if it was not questioned from the preceding ROPS' "] (*Brentwood*).) Such caveats were included in the ROPS decisions in this case. It is the Department's *final* decisions that are now at issue. (Cf. *id.* at p. 505 [Brentwood "had the statutory remedy of petitioning the Department for a 'final and conclusive' determination of approval for subsequent payments for that enforceable obligation"]; see *City of Galt v. Cohen* (2017) 12 Cal.App.5th 367, 384-385.) Thus, suggesting ill will or incompetence on the part of the Department for changing its mind does not help assess the legality of the ROPS denials now at issue. (Cf. *Hannon v. Madden* (1931) 214 Cal. 251, 268 [official acts presumed done in good faith, "even though mistakenly performed"]; *City of Emeryville v. Cohen* (2015) 233 Cal.App.4th 293, 302-303 [law presumes officials act in good faith]); Evid. Code, § 664.)

of the Plan." (Maj. opn., *ante*, at p. 13.) The Authority would pay Related up to $4.8 million. (*Id*. at pp. 13-14.) Some of this *might* include money from the RDA's Low and Moderate Income Housing Fund (i.e., housing set-aside funds), which included tax increment revenue that was statutorily designated (under the former Community Redevelopment Law (CRL), later abolished by the Great Dissolution) for use to improve the supply of affordable housing. (*Id*. at p. 13.) The City and its RDA were specified third party beneficiaries "with full right, but no obligation, to enforce the terms hereof." (*Id*. at p. 14.) Thus, they could compel compliance therewith, *but not themselves be compelled to do anything*. Thus, at that point there was no promise that any RDA money would be used for the revitalization project.

Effective June 28, 2010, the Housing Authority, the City, and the RDA entered into a "cooperation agreement" (also dated for identification purposes June 1, 2010) to fund the revitalization agreement. (Maj. opn., *ante*, at p. 14.) This cooperation agreement (funding agreement) described funding for the revitalization project and also referenced the RDA's statutory obligation under the CRL regarding affordable housing. The funding agreement recited that both the City and the RDA would transfer money to the Housing Authority for its use to implement the revitalization agreement, with the RDA's money to be used consistent with the CRL. (*Id*. at p. 14.) The maximum amounts the City would transfer ($3.759 million) and the RDA would transfer ($1.041 million) to the Housing Authority equaled the maximum the Housing Authority would have to pay Related for the revitalization agreement (i.e., up to $4.8 million). (See *id*. at pp. 14-15 & fn. 11.) However, the funding agreement did not specifically mention Related.

Effective January 31, 2011 (i.e., during the "fire sale" period after the Great Dissolution was announced but not yet adopted, see *City of Grass Valley v. Cohen* (2017) 17 Cal.App.5th 567, 574-575 & fn. 2 (*Grass Valley*)), the Housing Authority and the RDA entered into an "additional funding" agreement (second funding agreement). (Maj.

opn., *ante*, at p. 15.) It, too, references the RDA's duties under the former CRL regarding affordable housing. This second funding agreement recited that the Housing Authority and the RDA wanted the RDA to provide more housing set-aside funds ($15 million more) to the Housing Authority towards the revitalization agreement. It provided that the RDA's obligation would be at the RDA's "option" from funds of the RDA "*legally available therefor*. The payment obligation . . . hereunder *does not constitute a pledge of any particular funds* and is and shall be subordinate to any pledge or other commitment of the [Housing] Agency made in connection with any [RDA] bonds, now or hereafter issued."[2] (Italics added.) (*Id*. at p. 15.)

On February 1, 2011, the Housing Authority and Related amended their revitalization agreement, partly to account for the additional $15 million now anticipated to be given by the RDA (thus getting rid of money before it was diverted via the Great Dissolution) to the Housing Authority under the second funding agreement. (Maj. opn., *ante*, at p. 16.) This amendment to the revitalization agreement also established a schedule for payments from the Housing Authority to Related, including accounting for some payments already made.

The California Department of Finance (Department) initially approved some relevant ROPS items, but later denied others after an administrative meet and confer process in part because the former RDA was not a party to the revitalization agreement, a point the Department reiterated in a later ROPS decision, after this action began. (Maj. opn., *ante*, pp. 15-18.)

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[2] I note the original funding agreement was signed three times by Elisa Stipkovich, in her capacities as executive director of the RDA, and of the Housing Authority, and of the City's Community Development Department, and the second funding agreement was signed twice by Stipkovich, as executive director of both the RDA and of the Housing Authority.

DISCUSSION

"This case arises, as have many, from what we have previously characterized as the 'Great Dissolution' of California redevelopment agencies. [Citation.]" (*City of Azusa v. Cohen* (2015) 238 Cal.App.4th 619, 622-623 (*Azusa*).) Several observations flow therefrom.

First, it is important to keep in mind that the City (as itself), the City (as successor to its former RDA), and the Housing Authority, are each governed by the members of the City Council. This is reflected by the multiple signatures of the same official on relevant agreements in this record. (See fn. 2, *ante*.)

This circumstance is not unusual in RDA cases, and in fact partly *inspired* the Great Dissolution, as we have pointed out in other cases. (See, e.g., *Azusa*, *supra*, 238 Cal.App.4th at p. 624 ["The City, the Utility, and the RDA were governed by the same five elected city council members, and at oral argument on the petition the trial court referenced the 'three different hats' worn. Our Supreme Court has noted that 'the Legislature could well recognize that because of the conjoined nature of the governing boards of redevelopment agencies and their community sponsors, [obligations between them] often were not the product of arm's-length transactions.' [Citation.] The City is the successor agency to the RDA, bestowing yet another 'hat' on city council members"].) The significance of this is that, after the announcement of the Great Dissolution, these agencies were unlikely to have been acting at arm's length with each other.[3]

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[3] The Governor's January 2011 announcement of the plan to abolish RDAs led to a "frenzy on the part of former [RDAs] and their sponsoring agencies throughout the state to lock up unencumbered tax increment." (*City of Tracy v. Cohen* (2016) 3 Cal.App.5th 852, 858; see *Brentwood, supra,* 237 Cal.App.4th at p. 499, fn. 14 [referring to the ensuing "rush" to create "transactions that were not at arm's length"].)

Second, as just suggested, the timing of relevant actions is critical. What happened after the announcement of the Great Dissolution must be viewed with healthy skepticism, as that is a period identified by the Legislature as one prone to abuse.

"As described by our high court . . . Assembly Bill No. 1X 26 consisted of two principal components, codified in two new parts of the Health and Safety Code. Part 1.8 was the 'freeze' provision, effective immediately upon gubernatorial signature on June 28, 2011, and Part 1.85 was the 'dissolution component.' The latter did not become operative until [the lifting of a judicial stay and a judicially reformed] date [of] February 1, 2012. [Citation.]" (*Grass Valley*, *supra*, 17 Cal.App.5th at pp. 573-574.) Later, "Assembly Bill No. 1484 . . . clarified the process of winding down the former RDAs. [Citations.] [*Grass Valley* involved] what the parties loosely refer to as 'clawbacks.' (See [Health & Saf. Code] §§ 34179.5, subds. (b) & (c), 34179.6, subds. (c) & (d).) This refers to the administrative unwinding (via the [Due Diligence Review]) of specified RDA transactions that occurred after the Great Dissolution was proposed in January 2011. The period subject to clawbacks is from January 1, 2011, to June 30, 2012. It includes but is not limited to the approximate six-month period referred to by the parties and described in the legislative history as the 'fire sale' of RDA assets, which lasted until the freeze took effect in June 2011. [Citation.]" (*Id*. at p. 574.)

As relevant to this case, changes to the funding and revitalization agreements--resulting in formation of the second funding agreement, increasing by more than three times the amount of money potentially to be transferred from the RDA to the Authority, and the amended revitalization agreement--were made *after* the Great Dissolution was announced, i.e., during the so-called "fire-sale" or "clawback" period. What happened in this case appears to be a by-now typical scramble to evade the intended effects of that sea change in the law. (See fn. 3, *ante*.)

Third, this court has repeatedly rejected claims that the Great Dissolution impaired any contracts. (See, e.g., *Grass Valley*, *supra*, 17 Cal.App.5th at pp. 591-593; *Cuenca v.*

Cohen (2017) 8 Cal.App.5th 200, 227-230; *City of San Jose v. Sharma* (2016) 5 Cal.App.5th 123, 139-141; *City of Petaluma v. Cohen* (2015) 238 Cal.App.4th 1430, 1442; *Brentwood*, *supra*, 237 Cal.App.4th at pp. 503-504; *California Redevelopment Assn. v. Matosantos* (2013) 212 Cal.App.4th 1457, 1492-1494; see also *Azusa*, *supra*, 238 Cal.App.4th at pp. 630-631.)[4]

Although the majority discusses and factually distinguishes one such case (*Galt*), it does not acknowledge the many others. In my view, there is now a settled general rule *against* finding an impairment of contracts such that a clear factual or procedural difference must be identified to justify a different result in a given case. For the reasons that follow, I am no longer persuaded that *this* case presents any material differences that justify refusing to apply the general rule--promulgated by this court--that application of the Great Dissolution does not impair contracts.

The majority holds that the fact that a private entity (Related) is a real party in interest makes a material difference. (Maj. opn., *ante*, at pp. 31-32.) I might agree only if the RDA as a source of contractual payment had been a bargained-for term of Related's contract, which is not the case. The majority states the question "is whether the invalidation of the [RDA's] promise to provide funds to the [Housing Authority], so that the [Housing Authority] could provide them to Related, unconstitutionally impaired Related's contractual rights." (*Id*. at p. 29.) But the RDA *never made such any promise* to Related. Nor is Related left without a remedy, as it still has a contract with the

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[4] Both parties asked the trial court to judicially notice trial court decisions in other RDA cases, and the trial court granted the requests, but properly declined to treat the decisions as precedential. It should have denied the requests. (See *County of San Bernardino v. Cohen* (2015) 242 Cal.App.4th 803, 816 ["these [trial court RDA decisions] are not even citable under the Rules of Court (Cal. Rules of Court, rule 8.1115), and they bear no precedential weight"] (*San Bernardino*).)

Housing Authority.[5] All Related lost was the possibility that the former RDA would contribute money towards the contract. Nothing obligated the former RDA to do so. Absent a legal obligation on the part of the RDA to pay anything toward the Related contract, I do not see how the effective defunding of the RDA (regarding this transaction) impaired Related's enforceable contractual interests.[6]

I agree with the majority that the key dissolution statute is Health and Safety Code, section 34171, subdivision (d)(2),[7] which excludes from the definition of an

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[5] Related and the Housing Authority, which might otherwise be suing each other, are here represented by the same counsel. I express no view on the propriety of this fact. But the City's view that the Housing Authority has no other funds with which to pay Related raises factual issues not amenable to resolution on appeal in this administrative mandamus case, particularly since the Housing Authority is an arm of the City.

[6] I agree, as this court has held several times, that impairing *security* can in some circumstances impair contract rights, i.e., even without a present contractual default. (See, e.g., *Teacher's Retirement Bd. v. Genest* (2007) 154 Cal.App.4th 1012, 1029-1033; *Board of Administration v. Wilson* (1997) 52 Cal.App.4th 1109, 1137; *Valdes v. Cory* (1983) 139 Cal.App.3d 773, 785-791.) But absent a promise by the RDA to Related, Related's expectations of payment flowing from the RDA were just that: expectations or hopes, not an enforceable right.

I also note that the Department argues the references in the contracts to the CRL manifested an intention that the contracts be governed by any changes thereto. (See *City of Torrance v. Workers' Comp. Appeals Bd.* (1982) 32 Cal.3d 371, 379 [rejecting contract clause claim; " '[When] an instrument provides that it shall be enforced according either to the law generally or to the terms of a particular . . . statute, the provision must be interpreted as meaning the law or the statute in the form in which it exists at the time of such enforcement' "]; *id*., p. 380 ["The City had every reason to anticipate that its rights under those agreements would change over time"]; cf. *California Redevelopment Assn. v. Matosantos, supra,* 212 Cal.App.4th at p. 1494 ["there is no showing . . . that any change in the law . . . has or will substantially impair any contractual obligation that has been assumed by the successor agencies"].) The City replies that nobody could have predicted the Great Dissolution, which is relevant--if at all--only as to the *original* revitalization and funding agreements. But I need not resolve that point here.

[7] Further statutory references are to the Health and Safety Code.

"enforceable obligation" most contracts between a city and its former RDA. (See maj. opn., *ante,* at pp. 27-29.) The trial court correctly found that the funding agreement was between the former RDA, the City, and the Housing Authority, an entity that the trial court found and the parties agree, is treated by statute (§ 34167.10, subd. (a)) as an arm of the City. Without more, there would be no colorable claim that Related could somehow enforce that agreement.

I also agree with the majority's observation that Related's primary argument is that the statute (§ 34171, subd. (d)(2)) should not be interpreted so as to invalidate an agreement involving a private party's contract rights. (Maj. opn., *ante,* at p. 27.) As the majority aptly explains, "The problem with plaintiffs' argument is that they have attempted to frame it as an issue of statutory interpretation, when what they are really raising is an 'as applied' constitutional challenge to the statute." (*Id*. at p. 27.) But the majority goes on to say that this challenge hinges on "the facts presented by this case." (*Id*. at p. 28.) I do not agree. While an as-applied challenge may result in a tort suit for damages due to an alleged impairment of contracts, or perhaps for an unconstitutional government taking, this is an administrative mandamus petition seeking to overturn specific ROPS decisions by the Department. It is not a suit for damages for a taking, a breach of contract, or an impairment of contract. Related (and the public entities represented by the same counsel) alleged in their petition that the contracts would not have been made without assurance of RDA funding (i.e., detrimental reliance on promised RDA funding), and alleged the various contracts should be read as one (i.e., Related must be deemed a third party beneficiary in agreements to which it is not explicitly a party). But they did not include in their petition an action for damages for an impairment of contract by the Department, as the majority implies.

We have previously pointed out that "[o]n the face of section 34171(d)(2), there is no exception for an agreement between a former [RDA] and its creator if there is another party to the contract." (*San Bernardino, supra*, 242 Cal.App.4th at p. 816.) The majority

does not explain away this observation. And in any event, the trial court plausibly explained why the revitalization and funding agreements--both later amended--were not "integrated," that is, could not be treated as one over-arching contract. This is so, the trial court found, because although the revitalization agreement anticipated the funding agreement's existence, the funding agreement did not *require* the RDA to pay anything. Further, the trial court aptly noted that the revitalization agreement specified that the City and its RDA were third party beneficiaries, showing the parties understood the significance of such status, but the funding agreement did *not* make Related a third party beneficiary. Nor did the revitalization agreement include the funding agreement as one of the various documents deemed integrated with it. The funding agreement cannot be enforced by Related, because Related was neither a named party nor third party beneficiary, and it had no rights thereunder.

The trial court's conclusion seems correct, and indeed, the majority does not directly dispute it. Instead, the majority holds that it is immaterial whether or not the agreements should be treated as integrated, because they are "interdependent." (Maj. opn., *ante,* at pp. 28-29.) No authority is provided for this proposition, nor do I understand how "interdependent" means anything other than integrated in this context.

If there are two distinct contracts, which the trial court found and the majority does not contest, each should be examined in light of the Great Dissolution. If one (the funding agreement) does not create any enforceable obligation because it was made between the former RDA and the City (and the City-controlled Housing Authority) (see § 34171, subd. (d)(2)), Related's remedy, if any, should be limited to the only contract to which it is a party, that is, the revitalization agreement between Related and the Housing Authority. If Related has performed services under that contract for which it has not been paid, perhaps it has a contract claim against the Housing Authority. But that does not mean it can preclude the administrative unwinding of the funding agreement, as to which it is neither a party nor a third party beneficiary.

But the majority concludes that because the Department disallowed payments (or proposed payments) by the former RDA that were destined for the Housing Authority under the funding agreements but never promised to Related, the Department has thereby unconstitutionally impaired Related's revitalization agreement with the Housing Authority. (Maj. opn., *ante*, at pp. 31-35.) I cannot endorse this view.

Accordingly, I concur in Part III of the opinion but respectfully dissent from Parts II and Part IV (to the extent it endorses Part II), and concur in the result in Part I.

/s/
Durate, J.

DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 8, 2014

Ms. Stacey Shokri, Finance Manager
City of Anaheim
201 South Anaheim Boulevard, Suite 1003
Anaheim, CA 92805

Dear Mr. Shokri:

Subject: Objection of Oversight Board Action

The City of Anaheim Successor Agency (Agency) notified the California Department of Finance (Finance) of its September 25, 2014 Oversight Board (OB) resolution on October 28, 2014. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB action.

Based on our review and application of the law, the Agency's OB Resolution No. 2014-06, approving a Cooperation Agreement (Loan Agreement pursuant to HSC section 34173 (h) - LAB Disposition and Development Agreement) by and between the City of Anaheim (City) and the Agency, and making certain findings in accordance therewith, is not approved.

During our review of the Recognized Obligation Payment Schedule for the period January through June 2013 (ROPS III), Finance denied the Agency's request for the LAB Disposition and Development Agreement (DDA) as the Agency did not provide sufficient documentation showing that payments, if any, would be due during the ROPS III period for the construction of the parking lots and alleyway. As a result, the Agency was not authorized to make any payment for this line item. After our denial, the City entered into a contract in February 2013 with a third party to construct the parking lots and alleyway. The construction work was completed in November 2013 and the City paid for the construction costs. On September 9, 2014, the Agency entered into the Cooperation Agreement with the City to reimburse the City for those costs, purportedly under the authority of HSC 34173 (h).

HSC section 34173 (h) allows the sponsoring entity of the Agency to loan funds to the Agency for enforceable obligations, administrative costs, or project related expenses; however, it does not appear that the City actually loaned funds to the Agency for amounts owed under a contract in which the Agency is a party. Rather, the Cooperation Agreement seeks to reimburse the City for costs it incurred under an agreement between the City and Speiss Construction.

Additionally, the costs related to the parking lot and alleyway construction were not approved on a ROPS and therefore no payment was authorized. Furthermore, per HSC sections 34173, 34179 and 34180, assuming the Cooperation Agreement was a loan agreement under HSC 34173, a request by the Agency to enter into a loan agreement with the city that created the former redevelopment agency must be approved by the oversight board and is subject to the Finance's review prior to entering into the agreement. Additionally, the use of the loaned funds

must first be presented on a ROPS subject to review by the OB and Finance. The Agency took none of these steps prior to entering into the Cooperation Agreement or the alleged expenditure of the funds pursuant to the Cooperation Agreement. Consequently, the OB has no authority to retroactively approve the actions taken by the Agency, and therefore the Cooperation Agreement is not effective.

As authorized by HSC section 34179 (h), Finance is returning your OB action to the board for reconsideration.

Please direct inquiries to Nichelle Thomas, Supervisor, or Erika Santiago, Lead Analyst at (916) 445-1546.

Sincerely,

for

JUSTYN HOWARD
Acting Program Budget Manager

cc: Mr. Brad Hobson, Deputy Director, City of Anaheim
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office

Orange Countywide Oversight Board

Date: 9/18/2018 Agenda Item No. 9B

From: Successor Agency to the Garden Grove Redevelopment Agency

Subject**:** Resolution of the Countywide Oversight Board Approving Amendment to the Recognized Obligation Payment Schedule (ROPS) 18-19B

Recommended Action:

Approve resolution approving amendment to FY 2018-19B ROPS for the Garden Grove Successor Agency

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The Garden Grove Successor Agency requests approval of the Amended Recognized Obligation Payment Schedule (ROPS) 18-19 B for the second half of Fiscal Year 2018-19. The amendment would increase Redevelopment Property Trust Fund ("RPTTF") budget by $16,080 for Line Item Number 6 – Katella Cottages OPA and increase funding in "Other Funds" by $108 for Line Item Number 27 – Agency Property Maintenance/Management. These line items incurred approved allowable expenses during ROPS 17-18, but were not submitted for payment and paid until ROPS 18-19A period.

The Garden Grove Successor Agency resolution approving the Amended ROPS 18-19B will be voted upon at the September 11, 2018 City of Garden Grove Successor Agency regularly scheduled meeting. Successor Agency approval is subject to submittal to and approval by the Oversight Board and then by the State Department and Finance (DOF). The Successor Agency also requests authorization to post the approved Resolution and Amended ROPS 18-19 B to the City's website and to transmit the Amended ROPS 18-19 B to the DOF. Further, the City of Garden Grove's Community and Economic Development Director and her designees, in consultation with legal counsel, shall be authorized to make augmentations, modifications, additions or revisions as may be necessary or directed by DOF.

Impact on Taxing Entities

No fiscal impact until approved by DOF. If the DOF approves the Amended ROPS as submitted, the Successor Agency will increase its previously authorized ROPS 18-19B distribution amount of $10,656,693 to $10,672,881, a difference of $16,188 in RPTTF and Other Funds for the period of January 1, 2019 to June 30, 2019, to pay the Successor Agency's enforceable obligations.

Attachments

- Oversight Board Resolution Amending ROPS 18-19B
- Amended Recognized Obligation Payment Schedule 18-19 B
- Placeholder for Pending Resolution from Garden Grove Successor Agency

RESOLUTION NO. 18-___

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD WITH OVERSIGHT OF THE SUCCESSOR AGENCY TO THE GARDEN GROVE REDEVELOPMENT AGENCY APPROVING THE AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE 18-19 B FOR THE PERIOD OF JANUARY 1, 2019 TO JUNE 30, 2019, SUBJECT TO SUBMITTAL TO, AND REVIEW BY THE STATE DEPARTMENT OF FINANCE ("DOF") UNDER CALIFORNIA HEALTH AND SAFETY CODE, DIVISION 24, PART 1.85; AUTHORIZING THE POSTING AND TRANSMITTAL THEREOF; AND AUTHORIZING THE COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR, IN CONSULTATION WITH LEGAL COUNSEL, TO MAKE AUGMENTATIONS, MODIFICATIONS, ADDITIONS OR REVISIONS AS MAY BE NECESSARY OR DIRECTED BY DOF.

WHEREAS, the Garden Grove Agency for Community Development ("Former Agency") was established as a community redevelopment agency that was previously organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 33000, *et seq.*, and previously authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City of Garden Grove ("City"); and

WHEREAS, Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and wind down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 and by other subsequent legislation, and most recently by Senate Bill 107 (together, the "Dissolution Law"); and

WHEREAS, as of February 1, 2012 the former Agency was dissolved pursuant to the Dissolution Law, and, as a separate public entity, corporate and politic, the Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency") administers the enforceable obligations of the former Agency and otherwise unwinds the former Agency's affairs, all subject to the review and approval by an oversight board ("Oversight Board"); and

WHEREAS, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Law; and

WHEREAS, Sections 34177(m), 34177(o) and 34179 provide that each ROPS is submitted to, reviewed and approved by the Successor Agency and then reviewed and approved by the Oversight Board before final review and approval by the State Department of Finance ("DOF"); and

WHEREAS, Section 34177(o) of the Dissolution Law requires that beginning with the annual ROPS for the 16-17 fiscal period of July 1, 2016 to June 30, 2017 ("ROPS 16-17") inclusive, and for each period from July 1 to June 30, inclusive, thereafter, shall be submitted to

the DOF by the Successor Agency, after approval by the Oversight Board, no later than February 1, 2016, and each February 1 thereafter; and

WHEREAS, Section 34177(E) provides that once per ROPS period, and no later than October 1, a Successor Agency may submit one amendment to the ROPS if the Oversight Board makes a finding that a revision is necessary for payment of approved enforceable obligations during the second one-half of the ROPS period defined as January 1 to June 30, inclusive. The Successor Agency may only amend the amount requested for payment of approved enforceable obligations; and

WHEREAS, the Oversight Board has reviewed the Amended ROPS 18-19 B prepared, approved, and presented by the Successor Agency and desires to approve the Amended ROPS 18-19 B, and desires to authorize the Successor Agency, to cause posting of Amended ROPS 18-19 B on the City's website: https://ggcity.org/ and to direct transmittal of such ROPS to the DOF, with copies to the County Executive Officer, the County Auditor-Controller, and the State Controller's Office;

NOW, THEREFORE, BE IT RESOLVED THAT THE ORANGE COUNTYWIDE OVERSIGHT BOARD does hereby resolve as follows:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part hereof.

Section 2. Pursuant to the Dissolution Law, the Oversight Board hereby approves Amended ROPS 18-19 B; provided however, that the Amended ROPS 18-19 B is approved subject to the condition such ROPS is to be submitted to and reviewed by the State Department of Finance. Further, the Community and Economic Development Director and her designees, in consultation with legal counsel, shall be authorized to make augmentations, modifications, additions or revisions as may be necessary or directed by DOF.

Section 3. The Oversight Board authorizes transmittal of the Amended ROPS 18-19 B to the DOF, with copies to the County Administrative Officer, the County Auditor-Controller, and the State Controller's Office.

Section 4. The Community and Economic Development Director or her authorized designee is directed to post this Resolution, including the Amended ROPS 18-19 B, on the City/Successor Agency website pursuant to the Dissolution Law.

Section 5. Pursuant to Section 34179(h) written notice and information about all actions taken by the Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing. An Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review; provided however, that pursuant to Section 34177(m) as to each ROPS submitted the DOF shall make its determination of the enforceable obligations and the amounts and funding sources of the enforceable obligations thereon no later than 45 days after submittal.

Section 6. The Secretary of the Oversight Board shall certify to the adoption of this Resolution.

Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - Summary

Filed for the January 1, 2019 through June 30, 2019 Period

Successor Agency: **Garden Grove**

County: Orange

	Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	ROPS 18-19B Authorized Amounts	ROPS 18-19B Requested Adjustments	ROPS 18-19B Amended Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ 2,732,183**	**$ 108**	**$ 2,732,291**
B	Bond Proceeds	-	-	-
C	Reserve Balance	1,228,631	-	1,228,631
D	Other Funds	1,503,552	108	1,503,660
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 7,924,510**	**$ 16,080**	**$ 7,940,590**
F	RPTTF	7,630,409	16,080	7,646,489
G	Administrative RPTTF	294,101	-	294,101
H	**Current Period Enforceable Obligations (A+E):**	**$ 10,656,693**	**$ 16,188**	**$ 10,672,881**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/

Signature Date

Orange Countywide Oversight Board

Placeholder for Pending Resolution

Date: 9/18/2018

From: Successor Agency to the Garden Grove Redevelopment Agency

Subject**:** Resolution of the Garden Grove City Council Approving the Amended Recognized Obligation Payment Schedule 18-19 B for the period of January 1, 2019 to June 30, 2019

The resolution of the Garden Grove City Council approving the Amended Recognized Obligation Payment Schedule 18-19 B will be voted upon at their 9/11/2018 meeting. As such, the resolution is not yet available for submission but will be provided before the Countywide Oversight Board votes upon its resolution regarding the Amended Recognized Obligation Payment Schedule 18-19 B.

Orange Countywide Oversight Board

Date: 9/18/2018 Agenda Item No. 9C

From: Successor Agency to the Mission Viejo Redevelopment Agency

Subject: Resolution of the Countywide Oversight Board Approving Amendment to the Recognized Obligation Payment Schedule (ROPS)

Recommended Action:
Approve resolution approving amendment to FY 18-19B ROPS for the Mission Viejo Successor Agency

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The Mission Viejo Successor Agency requests approval of the Amended Recognized Obligation Payment Schedule (ROPS) 18-19B for the second half of Fiscal Year 2018-19. The amendment would increase the authorized amount in line 4 to $33,000. Line 4 are fees to HdL Coren & Cone (HdL) for property tax allocation reporting services for calculation of property tax increment required by Section 4.09 of the Pledge Agreement dated May 1, 1999 for the debt service payment of the 1999 Variable Rate Demand Revenue Bonds (ROPS line item 1).

In both the ROPS 17-18 and 18-19, the Mission Viejo Successor Agency requested funding for line item 4. The Department of Finance's (DOF) final determination on both these requests was denial of funding for line item 4 as a separate enforceable obligation and reclassed line item 4 as an amount that should be funded from Mission Viejo's annual Administrative Cost Allowance. Line item 4 has been subject to litigation action against the DOF and other parties with a final settlement agreement executed by all parties on August 13, 2018. Under 1(b) and 1(c) of the Settlement Agreement, DOF agrees to:

1. Reverse its reclassification of line item 4 in the amount of $16,500 for both ROPS 17-18 and 18-19; and
2. Approve line item 4 as an enforceable obligation as long as payments under this line item are for property tax review required by Section 4.09 of the Pledge Agreement dated May 1, 1999.

The Mission Viejo Successor Agency is requesting $16,500 for actual costs incurred during fiscal year 2017-18 and $16,500 for costs to be incurred for the entirety of fiscal year 2018-19 for a total of $33,000. Contracts in effect with HdL for both fiscal years are attached. These costs with HdL are specifically to assist Mission Viejo with the annual review of Net Property Tax Increment Revenues under Section 4.09 of the Pledge Agreement between the former Mission Viejo redevelopment agency and the Mission Viejo Community Development Financing Authority. The entire Pledge Agreement is attached; however, the section applicable to services provided by HdL under the Pledge Agreement and allowed as an enforceable obligation by DOF is below.

> Section 4.09. Annual Review of Net Property Tax Increment Revenues. The Agency shall annually review (i) the aggregate amount of Net Property Tax Increment Revenues, and (ii) all future debt service and other obligations payable by the Agency from Net Property Tax Increment Revenues, assuming for such purpose that the obligation for future Pledge Payments will be in the amounts and on the dates set forth in Exhibit A to this Pledge Agreement. The Agency shall not accept such taxes in any year in an amount which will cause the amount remaining under such limitation to be less than the amount required to permit the payment by the Agency of the debt service and other obligations described in clause (ii) above, or create a sinking fund with such excess funds to be used to satisfy its obligations under this Pledge Agreement.

The amended ROPS was presented and approved by the Mission Viejo Successor Agency on August 28, 2018. Mission Viejo Successor Agency Resolution 18-02 is attached documenting their action.

The Mission Viejo Successor Agency requests that the Orange Countywide Oversight Board adopt the attached Resolution approving the amendment to the FY 18-19B ROPS for the Mission Viejo Successor Agency.

Impact on Taxing Entities

An increase in Mission Viejo's Redevelopment Property Tax Trust Fund (RPTTF) distribution for the 2017-18B period in the amount of $33,000 will decrease the RPTTF distribution to all other taxing entities by $33,000. Mission Viejo's taxing entities include: County of Orange, County of Orange Flood Control District, County of Orange Harbors, Beaches & Parks County Service Area #26, Orange County Fire Authority, Orange County Superintendent of Schools, Saddleback Community College District; Capistrano Unified School District, Saddleback Valley Unified School District and the Mission Viejo Library.

Attachments

Orange Countywide Oversight Board Resolution
Mission Viejo Amended ROPS 18-19B
Mission Viejo Successor Agency Resolution 18-02
Mission Viejo ROPS 18-19
Settlement Agreement – City of Mission Viejo, et al. v. State of California, et al.
Pledge Agreement, dated May 1, 1999
HdL Agreement A14-17
HdL Agreement A14-17, First Amendment
HdL Agreement A18-01

Resolution No. 18-___

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD WITH OVERSIGHT OF THE SUCCESSOR AGENCY TO THE MISSION VIEJO REDEVELOPMENT AGENCY APPROVING AN AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE 18-19B FISCAL PERIOD OF JANUARY 1, 2019 TO JUNE 30, 2019, SUBJECT TO SUBMITTAL TO, AND REVIEW BY, THE STATE DEPARTMENT OF FINANCE UNDER CALIFORNIA HEALTH AND SAFETY CODE, DIVISION 24, PART 1.85, AND AUTHORIZING THE POSTING AND TRANSMITTAL THEREOF

WHEREAS, the Mission Viejo Redevelopment Agency ("former Agency") previously was a public body, corporate and politic formed, organized, existing and exercising its powers under the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq*., and was formed by the City Council ("City Council") of the City of Mission Viejo ("City"); and

WHEREAS, Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and wind down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 and by other subsequent legislation ("Dissolution Law"); and

WHEREAS, unless otherwise stated in this resolution, statutory references are to the California Health and Safety Code, Dissolution Law; and

WHEREAS, as of February 1, 2012, the former Agency was dissolved under the Dissolution Law, and as a separate public entity, corporate and politic under Section 34171(g), the Successor Agency to the Mission Viejo Redevelopment Agency ("Mission Viejo Successor Agency") administers the enforceable obligations of the former Agency and otherwise unwinds the former Agency's affairs; and

WHEREAS, prior to July 1, 2018 under the Dissolution Law, in particular Sections 34179 and 34180, all Mission Viejo Successor Agency actions were subject to the review and approval by a local seven-member oversight board, which oversaw and administered the Mission Viejo Successor Agency's activities during the period from dissolution until June 30, 2018; and

WHEREAS, as of, on and after July 1, 2018 under the Dissolution Law, in particular Section 34179(j), in every California county there shall be only one oversight board that is staffed by the county auditor-controller, with certain exceptions that do not apply here; and

WHEREAS, as of, on and after July 1, 2018 Section 34179(j) established the single Orange Countywide Oversight Board, which serves as the oversight board to the 25 successor agencies existing and operating in Orange County, including the Mission Viejo Successor Agency; and

WHEREAS, every oversight board, both the prior local oversight board and this newly established Orange Countywide Oversight Board, has fiduciary responsibilities to the holders of

enforceable obligations and to the taxing entities that benefit from distributions of property tax and other revenues under the Dissolution Law, in particular Section 34188; and

WHEREAS, Sections 34177(m), 34177(o) and 34179 provide that each Recognized Obligation Payment Schedule ("ROPS") is submitted to, reviewed and approved by the successor agency and then reviewed and approved by the oversight board before final review and approval by the State of California, Department of Finance ("DOF"); and

WHEREAS, Section 34177(o)(1)(E) authorizes that "[o]nce per period, and no later than October 1, a successor agency may submit one amendment to the [ROPS] approved by the department pursuant to this subdivision, if the oversight board makes a finding that a revision is necessary for the payment of approved enforceable obligations during the second one-half of the [ROPS] period, which shall be defined as January 1 to June 30, inclusive. A successor agency may only amend the amount requested for payment of approved enforceable obligations. The revised [ROPS] shall be approved by the oversight board and submitted to the department by electronic means in a manner of the department's choosing. The department shall notify the successor agency and the county auditor-controller as to the outcome of the department's review at least 15 days before the date of the property tax distribution." and;

WHEREAS, the DOF previously denied ROPS line item 4, in both the ROPS 17-18 and 18-19 and reclassified this line item as payable under the annual Administrative Cost Allowance; and

WHEREAS, under a Settlement Agreement executed on August 13, 2018, the DOF agrees to reverse its reclassification of line item 4 in the amount of $16,500 for both ROPS 17-18 and 18-19 and approve line item 4 as an enforceable obligation as long as payments under this line item are for property tax review required by Section 4.09 of the Pledge Agreement dated May 1, 1999; and

WHEREAS, ROPS line item 4, is related to services necessary to calculate the property tax increment payment dedicated to the 1999 Variable Rate Demand Revenue Bonds debt service payment obligated under a Pledge Agreement between the former Agency and the Mission Viejo Community Development Financing Authority and listed as ROPS line item 1; and

WHEREAS, the Mission Viejo Successor Agency confirms that expenditures related to line item 4 are expressly for the Agency's property tax review required by Section 4.09 of the Pledge Agreement dated May 1, 1999; and

WHEREAS, the Mission Viejo Successor Agency has prepared and desires to submit an amended ROPS 18-19B to correct the DOF's previous reclassification of line item 4 and obtain approval of funding of line item for ROPS 17-18 and 18-19 fiscal periods in the amount of $33,000; and

WHEREAS, the Mission Viejo Successor Agency approved the Amended ROPS 18-19B for fiscal period January 1, 2019 to June 30, 2019 at a meeting held on August 28, 2018 by Resolution 18-02; and

WHEREAS, the Amended ROPS 18-19B, in the form required by DOF, is attached as Attachment A, and attachment is fully incorporated by this reference; and

WHEREAS, the Orange Countywide Oversight Board has reviewed the Mission Viejo Successor Agency's amendment of ROPS 18-19B, and desires to make certain findings, including: (i) amendment is necessary to pay a DOF approved enforceable obligation on ROPS 18-19 during the "B" fiscal period as agreed to under the Settlement Agreement executed on August 13, 2018, (ii) Amended ROPS 18-19B is approved, (iii) Mission Viejo Successor Agency or City staff is authorized to post Amended ROPS 18-19B on the City's website: (http://www.cityofmissionviejo.org), and (iv) staff is directed to transmit Amended ROPS 18-19B to the DOF, with copies to the County of Orange Administrative Officer, the County of Orange Auditor-Controller, and the State Controller's Office pursuant to the Dissolution Law;

NOW, THEREFORE, BE IT RESOLVED THAT THE ORANGE COUNTYWIDE OVERSIGHT BOARD does hereby resolve as follows:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

Section 2. The Orange Countywide Oversight Board hereby finds the revision set forth in Amended ROPS 18-19B for funds to be distributed from the Redevelopment Property Tax Trust Fund ("RPTTF") for the fiscal period January 1, 2019 to June 30, 2019 is necessary to pay a DOF approved enforceable obligation for such ROPS 18-19B period; in particular, the amendment is to correct line item 4. to $33,000, which is an amount equal to the cost for annual review of Net Property Tax Increment Revenues under Section 4.09 of the Pledge Agreement for both FY 2017/18 and 2018/19.

Section 3. Under the Dissolution Law, the Orange Countywide Oversight Board approves Amended ROPS 18-19B (Attachment A); provided however, that the Amended ROPS 18-19B is approved subject to the condition that such amended ROPS is to be submitted to and reviewed by the DOF. Further, the City's Director of Administrative Services and her authorized designees, in consultation with legal counsel, shall be authorized to discuss this matter with the DOF and make augmentations, modifications, additions or revisions as may be necessary or directed by DOF.

Section 4. Orange Countywide Oversight Board authorizes transmittal of Amended ROPS 18-19B, to the DOF with copies to the Orange County Executive Officer, Orange County Auditor-Controller, and State Controller's Office.

Section 5. The City's Director of Administrative Services (and her authorized designees) is directed to post this Resolution, including the Amended ROPS 18-19B, on the City's website (www.cityofmissionviejo.org) pursuant to the Dissolution Law.

Section 6. Under Section 34179(h) written notice and information about certain actions taken by the Orange Countywide Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing. The Orange Countywide Oversight Board's action shall become

effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.

Section 7. The Clerk of the Orange Countywide Oversight Board shall certify to the adoption of this Resolution.

Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - Summary

Filed for the January 1, 2019 through June 30, 2019 Period

Successor Agency: **Mission Viejo**

County: Orange

	Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	ROPS 18-19B Authorized Amounts	ROPS 18-19B Requested Adjustments	ROPS 18-19B Amended Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ 126,122**	**$ -**	**$ 126,122**
B	Bond Proceeds	-	-	-
C	Reserve Balance	119,022	-	119,022
D	Other Funds	7,100	-	7,100
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 759,828**	**$ 33,000**	**$ 792,828**
F	RPTTF	634,828	33,000	667,828
G	Administrative RPTTF	125,000	-	125,000
H	**Current Period Enforceable Obligations (A+E):**	**$ 885,950**	**$ 33,000**	**$ 918,950**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Brian Problosky — Chairman

Name — Title

/s/

Signature — Date

Mission Viejo Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - ROPS Detail

January 1, 2019 through June 30, 2019

(Report Amounts in Whole Dollars)

Item #	Project Name/Debt Obligation	Obligation Type	Total Outstanding Balance	AUTHORIZED AMOUNTS – Fund Sources: Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	REQUESTED ADJUSTMENTS – Fund Sources: Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Notes
			$ 19,726,585	$ -	$ 119,022	$ 7,100	$ 634,828	$ 125,000	$ 885,950	$ -	$ -	$ -	$ 33,000	$ -	$ 33,000	
1	1999 Variable Rate Demand Revenue Bonds (Mission	Bonds Issued On or Before	$ 17,200,000	-	119,022	7,100	623,878		$ 750,000						$ -	
2	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	OPA/DDA/Construction	$ 100,000						$ -						$ -	
4	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	Fees	$ 168,000						$ -				33,000		$ 33,000	FY 2017/18 and 2018/19 amounts requested based on Sections 1(b) and 1(c) of Settlement Agreement in Case No. 34-2016-80002311
7	Camino Capistrano Bridge Improvements	OPA/DDA/Construction	$ 50,000	-	-	-	-		$ -						$ -	
8	Camino Capistrano Bridge Improvements	OPA/DDA/Construction	$ 50,000	-	-	-	-		$ -						$ -	
24	Owner Participation Agreement - Kaleidoscope	OPA/DDA/Construction	$ -	-	-	-	-		$ -						$ -	
27	Administration	Admin Costs	$ 250,000	-	-	-	-		$ -						$ -	
33	Camino Capistrano Bridge Improvements	Improvement/Infrastructure	$ 939,052	-	-	-	-		$ -						$ -	
37	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	Bonds Issued On or Before 12/31/10	$ 15,000	-	-	-	2,950		$ 2,950						$ -	
45	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Fees	$ 32,000	-	-	-	-		$ -						$ -	
58	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	$ 97,000	-	-	-	8,000		$ 8,000						$ -	
61	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	$ 100,000	-	-	-	-		$ -						$ -	
62	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	$ 100,000	-	-	-	-		$ -						$ -	
63	Mission Viejo Housing Authority	Housing Entity Admin Cost	$ 150,000						$ -						$ -	
64	Mission Viejo Housing Authority	Housing Entity Admin Cost	$ 150,000						$ -						$ -	
65	Mission Viejo Housing Authority	Housing Entity Admin Cost	$ 150,000						$ -						$ -	
66	Mission Viejo Housing Authority	Housing Entity Admin Cost	$ 150,000						$ -						$ -	
67	Litigation Settlement	Litigation	$ 25,533						$ -						$ -	

SUCCESSOR AGENCY RESOLUTION 18-02

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO APPROVING THE AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE 18-19B FISCAL PERIOD OF JANUARY 1, 2019 TO JUNE 30, 2019, SUBJECT TO SUBMITTAL TO, AND REVIEW BY, THE OVERSIGHT BOARD AND THE STATE DEPARTMENT OF FINANCE UNDER DISSOLUTION LAW, CALIFORNIA HEALTH AND SAFETY CODE, DIVISION 24, PART 1.85, AND AUTHORIZING POSTING AND TRANSMITTAL THEREOF

WHEREAS, the Community Development Agency of the City of Mission Viejo ("former Agency") previously was a public body, corporate and politic formed, organized, existing and exercising its powers under the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq*., and was formed by the City Council ("City Council") of the City of Mission Viejo ("City"); and

WHEREAS, Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and wind down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 and by other subsequent legislation ("Dissolution Law"); and

WHEREAS, as of February 1, 2012, the former Agency was dissolved under the Dissolution Law, and as a separate public entity, corporate and politic, the Successor Agency to the Community Development Agency of the City of Mission Viejo ("Successor Agency") administers the enforceable obligations of the former Agency and otherwise unwinds the former Agency's affairs; and

WHEREAS, prior to July 1, 2018 under Dissolution Law, in particular Sections 34179 and 34180, all Mission Viejo Successor Agency actions were subject to the review and approval by a local seven-member oversight board, which oversaw and administered the Mission Viejo Successor Agency activities during the period from dissolution until June 30, 2018; and

WHEREAS, as of, on and after July 1, 2018 under Dissolution Law, in particular Sections 34179(j), in every California county there shall be only one oversight board that is staffed by the county auditor-controller, with certain exceptions that do not apply here; and

WHEREAS, every oversight board, both the prior local oversight board and this newly established Orange Countywide Oversight Board, has fiduciary responsibilities to the holders of enforceable obligations and to the taxing entities that benefit from distributions of property tax and other revenues under Dissolution Law, in particular Sections 34188; and

WHEREAS, Sections 34177(m), 34177(o) and 34179 provide that each Recognized Obligation Payment Schedule ("ROPS") is submitted to, reviewed and approved by the Successor Agency and then reviewed and approved by the oversight board before final review and approval by the State of California, Department of Finance ("DOF"); and

WHEREAS, Section 34177(o)(1)(E) authorizes that "[o]nce per [ROPS] period, and no later than October 1, a successor agency may submit one amendment to the [ROPS] approved by the department pursuant to this subdivision, if the oversight board makes a finding that a revision is necessary for the payment of approved enforceable obligations during the second one-half of the [ROPS] period, which shall be defined as January 1 to June 30, inclusive. A successor agency may only amend the amount requested for payment of approved enforceable obligations. The revised [ROPS] shall be approved by the oversight board and submitted to the department by electronic means in a manner of the department's choosing. The department shall notify the successor agency and the county auditor-controller as to the outcome of the department's review at least 15 days before the date of the property tax distribution.", and;

WHEREAS, the DOF reviewed and approved with adjustments made by DOF, the Successor Agency's ROPS 18-19 in a decision letter dated April 13, 2018; and

WHEREAS, the DOF denied line item 4, Property Tax Allocation Reporting, in the amount of $16,500, on the ROPS 18-19 as an enforceable obligation; and

WHEREAS, the DOF denied line item 4, Property Tax Allocation Reporting, in the amount of $16,500, in the previous ROPS 17-18 as an enforceable obligation; and

WHEREAS, ROPS line item 4, Property Tax Allocation Reporting, is related to services necessary to calculate the property tax increment payment dedicated to the 1999 Variable Rate Demand Revenue Bonds debt service payment obligated under a Pledge Agreement between the former Agency and the Community Development Financing Authority and listed as ROPS line item 1; and

WHEREAS, the City and the Successor Agency have executed a Settlement Agreement agreeing that DOF shall reverse its reclassification of line item 4 and will approve line item 4 as an enforceable obligation so long as the payment requested is only for the Agency's property tax review required by Section 4.09 of the Pledge Agreement dated May 1, 1999; and

WHEREAS, the Successor Agency confirms that expenditures related to line item 4 are expressly for the Agency's property tax review required by Section 4.09 of the Pledge Agreement dated May 1, 1999; and

WHEREAS, the Successor Agency prepared an amendment to the approved ROPS 18-19 with modifications to the "B" fiscal period of January 1, 2019 to June 30, 2019 for line item 4, which amended ROPS 18-19B is attached as Exhibit A, and

WHEREAS, the Successor Agency has reviewed the draft ROPS 18-19B, as amended, and desires to approve the ROPS 18-19B, as amended, and to authorize the Successor Agency to transmit such ROPS 18-19B, as amended, to the Orange Countywide Oversight Board; and

WHEREAS, under Sections 34179.6 and 34177(k)(2)(B) of the Dissolution Law, the Successor Agency is required to submit a copy of the draft ROPS 18-19B, as amended, to the County Administrative Officer ("CAO"), the County Auditor-Controller ("CAC"), the State Controller's Office ("SCO") and the DOF at the same time that the Successor Agency submits such draft ROPS to the Orange Countywide Oversight Board for review; and

WHEREAS, the Successor Agency shall post the ROPS 18-19B, as amended, on the City's website: http://www.cityofmissionviejo.org;

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are hereby incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

SECTION 2. Under the Dissolution Law, the Successor Agency hereby approves the ROPS 18-19B, as amended, submitted herewith as Exhibit A and incorporated by this reference; provided however, that the ROPS 18-19B, as amended, is approved subject to the condition that such ROPS 18-19B, as amended, be transmitted to the Orange Countywide Oversight Board for review and approval and a copy of such draft ROPS 18-19B, as amended, also concurrently be sent to the CAO, CAC, SCO, and DOF. The Director of Administrative Services and her authorized designees, in consultation with legal counsel, shall be authorized to request and complete meet and confer session(s) with the DOF and authorized to make augmentations, modifications, additions or revisions as may be necessary or directed by DOF, and changes, if any, will be reported back to the Successor Agency.

SECTION 3. After approval by the Orange Countywide Oversight Board, the Successor Agency hereby authorizes transmittal of the ROPS 18-19B, as amended, again to the CAO, CAC, SCO and DOF.

SECTION 4. The Administrative Services Director or her authorized designee is hereby directed to post this Resolution, including the ROPS 18-19B, as amended, on the City's website (www.cityofmissionviejo.org) under the Dissolution Law.

SECTION 5. The Secretary of the Successor Agency shall certify to the adoption of this Resolution which shall be effective upon its adoption.

THE FOREGOING RESOLUTION IS APPROVED AND ADOPTED BY THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO THIS 28TH DAY OF AUGUST 2018 BY THE FOLLOWING ROLL CALL VOTE:

AYES:	Bucknum, Goodell, Kelley, Raths, and Sachs
NOES:	None
ABSENT:	None

SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO

Ed Sachs

Ed Sachs, CHAIR

ATTEST:

Karen Hamman

Karen Hamman, SECRETARY

EXHIBIT A
ROPS 18-19B, AS AMENDED
(attached)

Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - Summary

Filed for the January 1, 2019 through June 30, 2019 Period

Successor Agency: **Mission Viejo**

County: Orange

	Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	ROPS 18-19B Authorized Amounts	ROPS 18-19B Requested Adjustments	ROPS 18-19B Amended Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ 126,122**	**$ -**	**$ 126,122**
B	Bond Proceeds	-	-	-
C	Reserve Balance	119,022	-	119,022
D	Other Funds	7,100	-	7,100
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 759,828**	**$ 33,000**	**$ 792,828**
F	RPTTF	634,828	33,000	667,828
G	Administrative RPTTF	125,000	-	125,000
H	**Current Period Enforceable Obligations (A+E):**	**$ 885,950**	**$ 33,000**	**$ 918,950**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Brian Problosky — Chairman

Name — Title

/s/

Signature — Date

Mission Viejo Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - ROPS Detail

January 1, 2019 through June 30, 2019

(Report Amounts in Whole Dollars)

Item #	Project Name/Debt Obligation	Obligation Type	Total Outstanding Balance	AUTHORIZED AMOUNTS Fund Sources						REQUESTED ADJUSTMENTS Fund Sources						Notes
				Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	
			$ 19,726,585	$ -	$ 119,022	$ 7,100	$ 634,828	$ 125,000	$ 885,950	$ -	$ -	$ -	$ 33,000	$ -	$ 33,000	
1	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	Bonds Issued On or Before	$ 17,200,000	-	119,022	7,100	623,878		$ 750,000						$ -	
2	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	OPA/DDA/Construction	$ 100,000						$ -						$ -	
4	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	Fees	$ 168,000						$ -				33,000		$ 33,000	FY 2017/18 and 2018/19 amounts requested based on Sections 1(b) and 1(c) of Settlement Agreement in Case No. 34-2016-80002311
7	Camino Capistrano Bridge Improvements	OPA/DDA/Construction	$ 50,000	-	-	-	-		$ -						$ -	
8	Camino Capistrano Bridge Improvements	OPA/DDA/Construction	$ 50,000	-	-	-	-		$ -						$ -	
24	Owner Participation Agreement - Kaleidoscope	OPA/DDA/Construction	$ -	-	-	-	-		$ -						$ -	
27	Administration	Admin Costs	$ 250,000	-	-	-	-		$ -						$ -	
33	Camino Capistrano Bridge Improvements	Improvement/Infrastructure	$ 939,052	-	-	-	-		$ -						$ -	
37	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	Bonds Issued On or Before 12/31/10	$ 15,000	-	-	-	2,950		$ 2,950						$ -	
45	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Fees	$ 32,000	-	-	-	-		$ -						$ -	
58	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	$ 97,000	-	-	-	8,000		$ 8,000						$ -	
61	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	$ 100,000	-	-	-	-		$ -						$ -	
62	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	$ 100,000	-	-	-	-		$ -						$ -	
63	Mission Viejo Housing Authority	Housing Entity Admin Cost	$ 150,000						$ -						$ -	
64	Mission Viejo Housing Authority	Housing Entity Admin Cost	$ 150,000						$ -						$ -	
65	Mission Viejo Housing Authority	Housing Entity Admin Cost	$ 150,000						$ -						$ -	
66	Mission Viejo Housing Authority	Housing Entity Admin Cost	$ 150,000						$ -						$ -	
67	Litigation Settlement	Litigation	$ 25,533						$ -						$ -	

Recognized Obligation Payment Schedule (ROPS 18-19) - Summary

Filed for the July 1, 2018 through June 30, 2019 Period

Successor Agency: **Mission Viejo**

County: Orange

	Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	18-19A Total (July - December)	18-19B Total (January - June)	ROPS 18-19 Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ -**	**$ -**	**$ -**
B	Bond Proceeds	-	-	-
C	Reserve Balance	-	-	-
D	Other Funds	-	-	-
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 913,783**	**$ 899,200**	**$ 1,812,983**
F	RPTTF	788,783	774,200	1,562,983
G	Administrative RPTTF	125,000	125,000	250,000
H	**Current Period Enforceable Obligations (A+E):**	**$ 913,783**	**$ 899,200**	**$ 1,812,983**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Sherri Butterfield	Chairman
Name	Title
/s/ Sherri Butterfield	1/25/2018
Signature	Date

Mission Viejo Recognized Obligation Payment Schedule (ROPS 18-19) - ROPS Detail

July 1, 2018 through June 30, 2019

(Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
											18-19A (July - December)						18-19B (January - June)					
											Fund Sources						Fund Sources					
Item #	Project Name/Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	ROPS 18-19 Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	18-19A Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	18-19B Total
								$ 19,726,585		$ 1,812,983	$ -	$ -	$ -	$ 788,783	$ 125,000	$ 913,783	$ -	$ -	$ -	$ 774,200	$ 125,000	$ 899,200
1	1999 Variable Rate Demand	Bonds Issued On or Before	5/1/1999	9/1/2028	BNY Mellon Corporate Trust	Bond Pledge	1	17,200,000	N	$ 1,500,000				750,000		$ 750,000				750,000		$ 750,000
2	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	OPA/DDA/Construction	2/20/2012	9/1/2028	Stradling Yocca Carlson Rauth	OPA-Bond/Covenant Compliance	1	100,000	N	$ 10,000				5,000		$ 5,000				5,000		$ 5,000
3	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	Fees	9/4/2002	9/1/2028	Davis Company	Economic Planning	1	-	Y	$ -						$ -						$ -
4	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	Fees	7/1/2010	9/1/2028	HdL Coren & Cone	Property Tax Allocation Reporting	1	168,000	N	$ 16,500				8,250		$ 8,250				8,250		$ 8,250
7	Camino Capistrano Bridge Improvements	OPA/DDA/Construction	2/20/2012	6/30/2033	Stradling Yocca Carlson Rauth	Project Development	1	50,000	N	$ -						$ -						$ -
8	Camino Capistrano Bridge Improvements	OPA/DDA/Construction	9/4/2002	6/30/2033	Davis Company	Economic Planning	1	50,000	N	$ -						$ -						$ -
24	Owner Participation Agreement - Kaleidoscope	OPA/DDA/Construction	10/30/1995	6/30/2024	Stradling Yocca Carlson Rauth	OPA-Covenant Compliance	1	-	N	$ -						$ -						$ -
27	Administration	Admin Costs	2/1/2012	6/30/2033	City of Mission Viejo	Administration	1	250,000	N	$ 250,000					125,000	$ 125,000					125,000	$ 125,000
32	City Loans	City/County Loan (Prior 06/28/11), Other	7/30/2009	6/30/2033	City of Mission Viejo	City Loan for redevelopment operations	1	-	Y	$ -						$ -						$ -
33	Camino Capistrano Bridge Improvements	Improvement/Infrastructure	1/27/1993	6/30/2033	Contractor	Construction of Improvements	1	939,052	N	$ -						$ -						$ -
37	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project	Bonds Issued On or Before 12/31/10	7/1/2014	6/30/2019	Arbitrage Compliance Specialists, Inc.	Arbitrage rebate calculation	1	15,000	N	$ 2,950						$ -				2,950		$ 2,950
45	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Fees	7/1/2014	12/31/2019	City of Mission Viejo/KNN Financial	Variable Rate Bond required Letter of Credit renewal related services and other mall bond consulting services	1	32,000	N	$ -						$ -						$ -
51	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Project Management Costs	3/29/2012	9/1/2028	City of Mission Viejo	OPA Compliance including environmental review and direct project support			Y													
53	SERAF/ERAF Loan Repayment	Legal	2/20/2012	12/31/2033	Stradling Yocca Carlson Rauth	Legal costs related to incorrect County of Orange SERAF calculation	1	-	Y	$ -						$ -						$ -
56	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	RPTTF Shortfall	3/29/2012	9/1/2028	City of Mission Viejo	Legal costs related to incorrect County of Orange RPTTF calculations	1	-	Y	$ -						$ -						$ -
57	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	OPA/DDA/Construction	5/1/1999	9/1/2028	City of Mission Viejo	Construction Project Management	1	-	Y	$ -						$ -						$ -
58	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	5/1/1999	9/1/2028	BNY Mellon Trust	Bond Trustee fees	1	97,000	N	$ 8,000						$ -				8,000		$ 8,000
60	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	5/1/1999	9/1/2028	City of Mission Viejo	Letter of Credit Renewal	1	-	Y	$ -						$ -						$ -
61	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	5/1/1999	9/1/2028	HdL Coren & Cone	Letter of Credit Renewal	1	100,000	N	$ -						$ -						$ -
62	1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project)	Bonds Issued On or Before 12/31/10	5/1/1999	9/1/2028	Quint & Thimmig or Succeessor	Letter of Credit Renewal	1	100,000	N	$ -						$ -						$ -
63	Mission Viejo Housing Authority	Housing Entity Admin Cost	2/21/2011	9/1/2028	Mission Viejo Housing Authority	For the ROPS 15-16A and 15-16B periods	1	150,000	N													
64	Mission Viejo Housing Authority	Housing Entity Admin Cost	2/21/2011	9/1/2028	Mission Viejo Housing Authority	For the ROPS 14-15A and 14-15B periods	1	150,000	N													
65	Mission Viejo Housing Authority	Housing Entity Admin Cost	2/21/2011	9/1/2028	Mission Viejo Housing Authority	For the ROPS 16-17 period	1	150,000	N													
66	Mission Viejo Housing Authority	Housing Entity Admin Cost	2/21/2011	9/1/2028	Mission Viejo Housing Authority	For the ROPS 17-18 period		150,000	N													
67	Litigation Settlement	Litigation	2/1/2018	9/1/2028	City of Mission Viejo	Litigation Settlement	1	25,533	N	$ 25,533				25,533		$ 25,533						$ -
68									N	$ -						$ -						$ -
69									N	$ -						$ -						$ -
70									N	$ -						$ -						$ -
71									N	$ -						$ -						$ -
72									N	$ -						$ -						$ -
73									N	$ -						$ -						$ -
74									N	$ -						$ -						$ -
75									N	$ -						$ -						$ -
76									N	$ -						$ -						$ -
77									N	$ -						$ -						$ -
78									N	$ -						$ -						$ -
79									N	$ -						$ -						$ -
80									N	$ -						$ -						$ -
81									N	$ -						$ -						$ -
82									N	$ -						$ -						$ -
83									N	$ -						$ -						$ -
84									N	$ -						$ -						$ -
85									N	$ -						$ -						$ -
86									N	$ -						$ -						$ -
87									N	$ -						$ -						$ -
88									N	$ -						$ -						$ -
89									N	$ -						$ -						$ -
90									N	$ -						$ -						$ -
91									N	$ -						$ -						$ -

Mission Viejo Recognized Obligation Payment Schedule (ROPS 18-19) - Report of Cash Balances
July 1, 2015 through June 30, 2016
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see Cash Balance Tips Sheet

A	B	C	D	E	F	G	H	I
		Fund Sources						
		Bond Proceeds		Reserve Balance		Other	RPTTF	
	Cash Balance Information for ROPS 15-16 Actuals (07/01/15 - 06/30/16)	Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	Comments
1	**Beginning Available Cash Balance (Actual 07/01/15)**	-	-	-	-		811	
2	**Revenue/Income (Actual 06/30/16)** RPTTF amounts should tie to the **ROPS 15-16** total distribution from the County Auditor-Controller during June 2015 and January 2016.	-	-	-	-	7,100	2,176,552	
3	**Expenditures for ROPS 15-16 Enforceable Obligations (Actual 06/30/16)**	-	-	-	-	7,100	2,060,241	
4	**Retention of Available Cash Balance (Actual 06/30/16)** RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	-	-	-	-	-	-	
5	**ROPS 15-16 RPTTF Balances Remaining**	No entry required						
6	**Ending Actual Available Cash Balance (06/30/16)** **C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 + 5)**	$ -	$ -	$ -	$ -	$ -	$ 117,122	

Mission Viejo Recognized Obligation Payment Schedule (ROPS 18-19) - Notes July 1, 2018 through June 30, 2019

Item #	Notes/Comments
	None

SETTLEMENT AGREEMENT

City of Mission Viejo, et al. v. State of California, et al.
Sacramento Superior Court, Case No. 34-2016-80002311

PARTIES

This Settlement Agreement (**Agreement**) is entered into by the following parties: (1) City of Mission Viejo (**City**); (2) Successor Agency to the Community Development Agency of the City of Mission Viejo (**Successor Agency**); (3) Michael Cohen, in his official capacity as California State Director of Finance (**Finance**) ; (4) California State Controller Betty T. Yee, in her official capacity (**Controller**); and (5) Eric H. Woolery, in his official capacity as the Auditor-Controller of the County of Orange (**Auditor-Controller**) (collectively, the **Parties**).

RECITALS

A. The litigation resolved by this Agreement relates to the wind down of the Redevelopment Agency for the City (**RDA**) pursuant to Assembly Bill 26 of the 2011-12 First Extraordinary Session of the California Legislature ("AB x1 26"), Assembly Bill 1484 of the 2011-12 Regular Session of the California Legislature ("AB 1484") and Senate Bill 107 of the 2015-2016 Regular Session of the California Legislature ("SB 107") (AB x1 26, AB 1484 and SB 107, collectively the Dissolution Law).

B. Following the dissolution of the RDA, on September 29, 2015, the Successor Agency submitted to Finance the Recognized Obligation Payment Schedules (**ROPS**) for the period of January 1 – June 30, 2016 (**ROPS** 15-16B). The Successor Agency submitted **ROPS** 15-16B as required by the Dissolution Law. Among the items listed on **ROPS** 15-16B was Item No. 45 for $30,000 claimed to be an enforceable obligation owed to KNN Financial (**KNN**) for Letter of Credit renewal contract services relating to Mission Viejo Community Development Financing Authority Revenue Bonds, 1999 Series A and Mission Viejo Community Development Financing Authority Revenue Bonds, 1999 Series B for the Mission Viejo Mall Improvement Project (**Mall Bonds**).

C. Finance issued a letter, dated November 9, 2015, which included, among other things, a determination that only $10,000 of Item No. 45 was payable from the Redevelopment Property Tax Trust Fund (**RPTTF**). Subsequently, a Meet and Confer session concerning Finance's November 9, 2015 determination letter has held. Finance issued a letter, dated December 17, 2015, after the Meet and Confer session, which constituted Finance's final determination for **ROPS 15-16B**. The final determination letter, among other things, denied $5,000 of Item No. 45 as payable from RPTTF and reclassified the balance of $25,000 as payable from the Successor's Administrative Cost Allowance (**ACA**).

D. The City and Successor Agency filed a Petition for Writ of Mandate and Complaint for Declaratory Relief and Injunctive Relief on or about March 18, 2016, entitled *City of Mission Viejo, et al. v. State of California, et al.,* Sacramento County Superior Court Case No. 34-2016-80002311 ("**Action**"). On or about July 6, 2016, the City and Successor Agency filed a First Amended and Supplemental Petition for Writ of Mandate and Complaint for

Declaratory Relief and Injunctive Relief in the **Action**.

E. On January 30, 2017, the Successor Agency submitted to Finance the **ROPS** for the period of July 1, 2017 – June 30, 2018 (**ROPS** 17-18). The Successor Agency submitted **ROPS** 17-18 as required by the Dissolution Law. Among the items listed on **ROPS** 17-18 was Item No. 4 for $18,000 claimed as an enforceable obligation owed to HdL Coren & Cone (**HdL**) for financial consulting services performed in connection with the Mall Bonds. Finance denied the entire amount because the contract with **HdL** was to terminate on June 30, 2017 by Finance's April 14, 2017 determination letter for **ROPS** 17-18.

F. A meet and confer session was held on May 3, 2017 regarding Finance's April 14, 2017 determination letter for **ROPS** 17-18. Subsequently, Finance issued a superseding determination letter dated May 17, 2017 as a result of the May 3, 2017 meet and confer. Among other things, the May 17, 2017 letter revised its Item No. 4 **ROPS** 17-18 determination by finding that payments owed to **HdL** were enforceable obligations up to an annual maximum amount of $16,500. However, the amounts owed to **HdL** were reclassified as payable from the Successor Agency's **ACA**.

G. On January 29, 2018, the Successor Agency submitted to Finance the **ROPS** for the period of July 1, 2018 – June 30, 2019 (**ROPS** 18-19). The Successor Agency submitted **ROPS** 18-19 as required by the Dissolution Law. Among the items listed on **ROPS** 18-19 was Item No. 4 for $16,500 claimed as an enforceable obligation owed to HdL Coren & Cone (**HdL**) for financial consulting services performed in connection with the Mall Bonds. Finance denied the entire amount because the item was subject to ongoing litigation by Finance's April 13, 2018 determination letter for **ROPS** 18-19.

H. Without admission of fault or wrongdoing, the Parties have agreed to completely resolve any and all disputes between the Parties pertaining to, or in any way relating to the Action, **ROPS 15-16B, Item No. 45, ROPS 17-18, Item No. 4**, and **ROPS 18-19, Item No. 4,** by entering into this Agreement.

AGREEMENT

Accordingly, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. Principal Terms: The Parties agree to the following resolution of their disputes relating to the Action, **ROPS 15-16B, Item No. 45, ROPS 17-18, Item No. 4,** and **ROPS 18-19, Item No. 4** (Settled Matters):

(a) Finance shall reverse its reclassification of the annual maximum enforceable obligation amount of $25,000 owed to KNN (**ROPS 15-16B**, Item No. 45) as set forth in Finance's May 17, 2017 letter. Finance shall continue to approve Item. 45 as an enforceable obligation so long as the payment requested is required by the Pledge Agreement dated May 1, 1999 to reimburse costs to maintain a letter of credit if required by the 1999 Variable Rate Demand Revenue Bonds so long as such bonds remain outstanding.

(b) Finance shall reverse its reclassification of the annual maximum enforceable obligation amount of $16,500 owed to **HdL** (**ROPS** 17-18, Item No. 4) as set forth in Finance's May 17, 2017 letter. Finance shall continue to approve Item. 4 as an enforceable obligation so long as the payment requested is only for the Agency's property tax review required by Section 4.09 of the Pledge Agreement dated May 1, 1999.

(c) Finance shall reverse its reclassification of the annual maximum enforceable obligation amount of $16,500 owed to **HdL** (**ROPS** 18-19, Item No. 4) as set forth in Finance's April 13, 2018 letter. Further, Finance shall treat **ROPS** 18-19, Item No. 4, as an approved enforceable obligation for purposes of the amendment process set forth in Health and Safety Code section 34177, subdivision (o)(1)(E). For future ROPS periods, Finance shall continue to approve Item. No. 4 as an enforceable obligation so long as the payment requested is only for the Agency's property tax review required by Section 4.09 of the Pledge Agreement dated May 1, 1999.

(d) The City and Successor Agency shall request dismissal of the entire Action with prejudice within 5 business days after the effective date of this Agreement.

2. Claims Disputed: The Agreement does not constitute, nor shall it be construed as, an admission or concession by any of the Parties for any purpose. This Agreement is a compromise settlement of the Action, and by executing this Agreement, none of the Parties admits wrongdoing, liability, or fault in connection with either the Action or the allegations asserted in the Action.

3. Mutual Release: The Parties specifically and mutually release and discharge each other, including their respective officers, directors, commission members, trustees, agents, employees, representatives, attorneys, insurers, departments, divisions, sections, successors and assigns from all obligations, damages, costs, expenses, liens, and attorneys' fees, of any nature whatsoever, whether known or unknown, suspected or not suspected to exist, claimed or not claimed, disputed or undisputed, pertaining to the Settled Matters.

4. Successors and Assigns: This Agreement shall be binding upon the Parties' respective officers, directors, commission members, trustees, agents, employees, representatives, attorneys, departments, divisions, sections, successors and assigns.

5. Assumption of Risk: The Parties each represent that they fully understand that if the facts pertaining in any way to the Action are later found to be different from the facts now believed to be true by any Party, each of them expressly accepts and assumes the risk of such possible differences in facts and agrees that this Agreement shall remain effective notwithstanding such differences in facts. The Parties also each represent that this Agreement was entered into under the laws current as of the effective date, and agree that this Agreement shall remain effective notwithstanding any future changes in the law.

6. Independent Advice of Counsel: The Parties each represent that they know and understand the contents of the Agreement and that this Agreement has been executed voluntarily. The Parties each further represent that they have had an opportunity to consult with an attorney

of their choosing and that they have been fully advised by the attorney with respect to their rights and obligations and with respect to the execution of this Agreement.

7. Entire Agreement: No promise, inducement, understanding, or agreement not expressed has been made by or on behalf of the Parties, and this Agreement contain the entire agreement between the Parties related to the Action.

8. Indemnity: Each Party represents that it has not assigned, transferred, or purported to assign or transfer to any person or entity any matter released herein. The petitioners in the Action also agree to indemnify and hold harmless the respondents in the Action and their successors and assigns against any claims, demands, causes of action, damages, debts, liabilities, costs or expenses, including, but not necessarily limited to, attorney fees, arising out of or in connection with the Action.

9. Amendments in Writing: This Agreement may not be altered, amended, modified, or otherwise changed in any respect except by a writing duly executed by the Parties. The Parties agree that they will make no claim at any time or place that this Agreement has been orally altered or modified or otherwise changed by oral communication of any kind or character.

10. Construction: The Parties agree that this Agreement is to be construed and interpreted without regard to the identity of the party drafting this Agreement.

11. Additional Acts: The Parties agree to take such actions and to execute such documents as are necessary to carry out the terms and purposes of this Agreement.

12. Attorney Fees: The Parties shall each bear their respective attorney fees and costs incurred in the litigation.

13. Enforcement: If any Party to this Agreement files a lawsuit to enforce or interpret this Agreement, the prevailing Party in any such suit shall be entitled to reimbursement for reasonable attorney fees and costs.

14. Choice of Law and Jurisdiction: This Agreement shall be governed by the laws of the State of California. If any Party to this Agreement brings a lawsuit to enforce or interpret this Agreement, the lawsuit shall be filed in the Superior Court for the County of Sacramento, California.

15. Counterparts: This Agreement may be executed by facsimile and in counterparts, each of which is deemed an original and all of which shall constitute this Agreement.

16. Effective Date: The date on which the last counterpart of this Agreement is executed shall be the effective date of this Agreement.

17. Authority to Execute: Each Party represents that they have the authority to enter into and perform the obligations necessary to provide the consideration described in this Agreement. Each person signing this Agreement represents and warrants that they have the authority to sign on behalf of the Party for which they sign.

18. Approval by City Council; Effective Date. This Agreement shall be executed by the Parties as indicated below, and is subject to the approval by the City Council for the City of Mission Viejo (acting both as the governing board of the City and as the governing board of the Successor Agency under the Dissolution Law). This Agreement shall become binding and effective upon (1) the approval of the City Council for the City of Mission Viejo, and (2) the execution of the Agreement by the Parties.

This Agreement consists of Recital Paragraphs A - H and Paragraphs 1 – 18.

DATED: 7/19/18

CITY OF MISSION VIEJO

By _____

Its City Manager

DATED: 7/19/18

SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO

By _____

Its Executive Director

DATED: August 13, 2018

MICHAEL COHEN, IN HIS OFFICIAL CAPACITY AS CALIFORNIA STATE DIRECTOR OF FINANCE

By Kari Krogseng
KARI KROGSENG

Its CHIEF COUNSEL

DATED: July 31, 2018

BETTY T. YEE, IN HER OFFICIAL CAPACITY AS CALIFORNIA STATE CONTROLLER

By _____

Its Richard J. Chivaro, Chief Counsel

DATED: _____

ERIC H. WOOLERY, IN HIS OFFICIAL CAPACITY AS THE AUDITOR-CONTROLLER OF THE COUNTY OF ORANGE

By _____

Its _____

Approved as to Form:

CITY ATTORNEY, CITY OF MISSION VIEJO
LOZANO SMITH

By: _____
Attorneys for Petitioners and Plaintiffs
City of Mission Viejo and Successor Agency to the Community Development Agency of the City of Mission Viejo

DATED: _____

MICHAEL COHEN, IN HIS OFFICIAL CAPACITY AS CALIFORNIA STATE DIRECTOR OF FINANCE

By _____

Its _____

DATED: July 31, 2018

BETTY T. YEE, IN HER OFFICIAL CAPACITY AS CALIFORNIA STATE CONTROLLER

By _____

Its Richard J. Chivaro, Chief Counsel

DATED: _____

ERIC H. WOOLERY, IN HIS OFFICIAL CAPACITY AS THE AUDITOR-CONTROLLER OF THE COUNTY OF ORANGE

By _____

Its _____

Approved as to Form:

CITY ATTORNEY, CITY OF MISSION VIEJO
LOZANO SMITH

By: _____
Attorneys for Petitioners and Plaintiffs
City of Mission Viejo and Successor Agency to the Community Development Agency of the City of Mission Viejo

DATED: _____

MICHAEL COHEN, IN HIS OFFICIAL CAPACITY AS CALIFORNIA STATE DIRECTOR OF FINANCE

By _____

Its _____

DATED: _____

BETTY T. YEE, IN HER OFFICIAL CAPACITY AS CALIFORNIA STATE CONTROLLER

By _____

Its _____

DATED: 7-26-18

ERIC H. WOOLERY, IN HIS OFFICIAL CAPACITY AS THE AUDITOR-CONTROLLER OF THE COUNTY OF ORANGE

By E. H. Woolery

Its Auditor-Controller

Approved as to Form:

CITY ATTORNEY, CITY OF MISSION VIEJO
LOZANO SMITH

By: _____
Attorneys for Petitioners and Plaintiffs
City of Mission Viejo and Successor Agency to the Community Development Agency of the City of Mission Viejo

DATED: _____

MICHAEL COHEN, IN HIS OFFICIAL CAPACITY AS CALIFORNIA STATE DIRECTOR OF FINANCE

By_____

Its_____

DATED: _____

BETTY T. YEE, IN HER OFFICIAL CAPACITY AS CALIFORNIA STATE CONTROLLER

By_____

Its_____

DATED: _____

ERIC H. WOOLERY, IN HIS OFFICIAL CAPACITY AS THE AUDITOR-CONTROLLER OF THE COUNTY OF ORANGE

By_____

Its_____

Approved as to Form:

CITY ATTORNEY, CITY OF MISSION VIEJO
LOZANO SMITH

By: Mark Waterman

Attorneys for Petitioners and Plaintiffs
City of Mission Viejo and Successor Agency to the Community Development Agency of the City of Mission Viejo

LEON J. PAGE, COUNTY COUNSEL
COUNTY OF ORANGE

By: _____
Attorneys for Respondent and Defendant
Auditor-Controller of the County of Orange
Carolyn M. Khouzam, Deputy County Counsel

XAVIER BECERRA
Attorney General of California

By: _____
Jeffrey A. Rich, Deputy Attorney General
Attorneys for Respondents and Defendants
California Department of Finance and California
State Controller

Quint & Thimmig LLP

08/18/98
09/08/98
10/28/98
01/22/99
02/02/99
FINAL 05/07/99

PLEDGE AGREEMENT

by and between the

COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO,

and the

MISSION VIEJO COMMUNITY DEVELOPMENT FINANCING AUTHORITY

Dated as of May 1, 1999

Relating to

$31,100,000
Mission Viejo Community Development Financing Authority
Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project),
1999 Series A (Tax-Exempt)

and

$10,000,000
Mission Viejo Community Development Financing Authority
Revenue Bonds (Mission Viejo Mall Improvement Project),
1999 Series B (Subordinate Lien—Taxable)

TABLE OF CONTENTS

ARTICLE VII

MISCELLANEOUS

PLEDGE AGREEMENT

THIS PLEDGE AGREEMENT (this "Pledge Agreement"), is made and entered into as of May 1, 1999, by and between the COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO (the "Agency"), and the MISSION VIEJO COMMUNITY DEVELOPMENT FINANCING AUTHORITY (the "Authority");

W I T N E S S E T H :

WHEREAS, the Agency and the City of Mission Viejo (the "City") have heretofore entered into a Joint Exercise of Powers Agreement establishing the Mission Viejo Community Development Financing Authority (the "Authority") for the purpose, among other things, of issuing its bonds to be used to provide financial assistance to the City and/or the Agency;

WHEREAS, for the purpose of providing funds to finance the acquisition, construction, installation and equipping of various public capital improvements to the Mission Viejo Mall (the "Improvements"), the Authority has determined to issue its Mission Viejo Community Development Financing Authority Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project), 1999 Series A (Tax-Exempt), in the aggregate principal amount of $31,100,000 (the "Series A Bonds"), and its Mission Viejo Community Development Financing Authority Revenue Bonds (Mission Viejo Mall Improvement Project), 1999 Series B (Subordinate Lien—Taxable), in the aggregate principal amount of $10,000,000 (the "Series B Bonds" and, with the Series A Bonds, the "Bonds");

WHEREAS, the Series A Bonds will be issued under an Indenture of Trust (the "Series A Indenture"), by and between the Authority and BNY Western Trust Company, as trustee (the "Trustee");

WHEREAS, the Series B Bonds will be issued under an Indenture of Trust (the "Series B Indenture" and, with the Series A Indenture, the "Indentures"), by and between the Authority and the Trustee;

WHEREAS, the Agency desires to assist the Authority in connection with acquisition, construction, installation and equipping of the Improvements;

WHEREAS, accordingly, the Agency wishes to pledge certain of the tax allocation revenues received by the Agency (the "Net Property Tax Increment Revenues");

WHEREAS, the Agency wishes to make, on each Pledge Payment Date, all Net Property Tax Increment Revenues to the Trustee; and

WHEREAS, in consideration of the Agency's financial assistance to the Authority provided for in this Pledge Agreement, the Authority has agreed and certified that the Improvements will be of benefit to the Agency's Mission Viejo Community Development Project;

NOW, THEREFORE, in consideration of the premises and the mutual agreements contained in this Pledge Agreement, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; TERM

Section 1.01. Definitions. Unless the context clearly otherwise requires or unless otherwise defined in this Pledge Agreement, the capitalized terms in this Pledge Agreement shall have the respective meanings given them in the Series A Indenture and in the Owner Participation Agreement, dated as of November 16, 1998, by and between the Agency and Mission Viejo Associates, L.P.

Section 1.02. Rules of Construction. All references in this Pledge Agreement to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Pledge Agreement, and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Pledge Agreement as a whole and not to any particular Article, Section or subdivision hereof.

Section 1.03. Term of Agreement. This Pledge Agreement shall become effective upon its execution and delivery by the Agency and the Authority and shall continue in effect until there has been paid to the owners of the Bonds the principal and interest due thereon and all amounts owed to the Bank, by means of payment in full of the Bonds under the Series A Indenture and the Series B Indenture (to the extent required therein) or provision made for their payment pursuant to Article IX of the Series A Indenture and pursuant to Article IX of the Series B Indenture.

Section 1.04. Authorization. The Agency hereby agrees to provide financial assistance to the Authority in order to pay the Debt Service on the Bonds, the proceeds of which will be used by the Authority to finance the Improvements, all under and subject to the terms and conditions of the Indentures, the Sublease Agreement and this Pledge Agreement. The Authority agrees to accept such assistance and to undertake the financing of the Improvements subject to the terms of this Pledge Agreement, the Indentures and the Sublease Agreement. Sections 3.01 and 4.01 of this Pledge Agreement constitute a continuing agreement between the Agency and the Authority to secure the full and final payment of the principal and interest due on the Bonds and all amounts owed to the Bank, subject to the agreements, provisions and conditions in this Pledge Agreement contained.

The Agency hereby acknowledges that the agreements of the Authority in this Pledge Agreement are intended to satisfy the requirements of the Community Redevelopment Law with respect to the use of Net Property Tax Increment Revenues to assist in the financing of the Improvements.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties of the Authority. Any representations and warranties of the Authority in the Indentures and the Sublease Agreement to any party are hereby made by the Authority for the benefit of the Agency, as if fully set forth in this Pledge Agreement. In addition to the foregoing, the Authority hereby represents and warrants to the Agency and the Bank as follows:

(a) The Authority is a joint exercise of powers authority, duly organized and existing under the laws of the State with full power and authority to issue the Bonds, finance the Improvements and perform its obligations hereunder and under the Indentures and the Sublease Agreement.

(b) The execution and delivery of this Pledge Agreement, the Indentures and the Sublease Agreement, and the performance of its obligations hereunder and thereunder, has been duly authorized by the Authority.

(c) The Indentures, this Pledge Agreement and the Sublease Agreement, when executed and delivered by the Authority and the other parties thereto, will be legal, valid and binding obligations of the Authority enforceable upon the Authority in accordance with their respective terms.

(d) The execution and delivery by the Authority of this Pledge Agreement, the Indentures and the Sublease Agreement and the consummation of the transactions on its part contemplated hereby and thereby do not and will not conflict with or constitute a breach of or a default under or result in a violation of (i) the Authority's joint exercise of powers agreement or the bylaws of the Authority, (ii) any constitutional or statutory provision or order, rule, regulation or ordinance, or any order, decree or judgment of any court or governmental authority having jurisdiction over the Authority or any of its properties, or (iii) any agreement or instrument to which it is a party or by which it is bound.

(e) There is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending against or threatened against or affecting the Authority wherein an unfavorable decision, ruling or finding would adversely affect (i) the validity or enforceability of, or the authority or ability of the Authority to perform its obligations under, this Pledge Agreement, the Indentures and the Sublease Agreement or any other agreement or instrument to which the Authority is a party and which has been or will be executed by it in connection with the consummation of the transactions contemplated by this Pledge Agreement, the Indentures and the Sublease Agreement, or (ii) the transactions contemplated to be performed by it under this Pledge Agreement the Indentures or the Sublease Agreement.

Section 2.02. Representations and Warranties of the Agency. The Agency hereby represents and warrants to the Authority and the Trustee, for the benefit of the Owners of the Bonds and the Bank, as follows:

(a) The Agency is a public body, corporate and politic, duly established and existing under the Community Redevelopment Law with full power and authority to perform its obligations hereunder.

(b) The execution and delivery of this Pledge Agreement and the performance of its obligations hereunder has been duly authorized by the Agency.

(c) This Pledge Agreement has been executed and delivered by the Agency and constitutes a legal, valid and binding obligation of the Agency enforceable upon the Agency in accordance with its terms.

(d) The execution and delivery of this Pledge Agreement by the Agency and the consummation of the transactions on its part contemplated hereby do not conflict with or constitute a breach of or a default under or result in a violation of (i) the Community Redevelopment Law, (ii) any constitutional or statutory provision or order, rule, regulation or ordinance, or any order, decree or judgment of any court or governmental authority having jurisdiction over the Agency or any of its properties, or (iii) any agreement or instrument to which it is a party or by which it is bound.

(e) There is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending against or threatened against or affecting the Agency wherein an unfavorable decision, ruling or finding would adversely affect (i) the validity or enforceability of, or the authority or ability of the Agency to perform its obligations under, this Pledge Agreement or any other agreement or instrument to which the Agency is a party and which has been or will be executed by it in connection with the consummation of the transactions contemplated hereby, or (ii) the transactions contemplated to be performed by it under this Pledge Agreement.

(f) The use of the Net Property Tax Increment Revenues in the manner set forth in this Pledge Agreement does not violate the Community Redevelopment Law.

ARTICLE III

PAYMENT OF PLEDGE PAYMENTS AND ADDITIONAL PAYMENTS

Section 3.01. Pledge Payments.

(a) On each Pledge Payment Date throughout the term of this Pledge Agreement, the Agency shall pay to the Trustee for deposit into the Revenue Fund held by the Trustee pursuant to the Series A Indenture the Pledge Payments, which Pledge Payment on each such Pledge Payment Date shall constitute all Net Property Tax Increment Revenues collected by the Agency since the immediately preceding Pledge Payment Date.

(b) The Agency understands and agrees that the Authority has assigned its right, title and interest in this Pledge Agreement to the Trustee pursuant to the Indentures for the benefit of the Owners and the Agency assents to such assignment. The Authority hereby directs the Agency, and the Agency hereby agrees, to pay to the Trustee at the Trustee's principal corporate trust office in Los Angeles, California, or to the Trustee at such other place as the Trustee shall direct in writing, all payments payable by the Agency pursuant to this Section 3.01.

Section 3.02. Additional Payments. In addition to the Pledge Payments, the Agency shall pay when due the following Additional Payments:

(a) Any fees and expenses incurred by the Authority in connection with or by reason of its leasehold estate in the Leased Premises as and when the same become due and payable;

(b) Any amounts due to the Trustee pursuant to Section 8.06 of the Series A Indenture for all services rendered under the Series A Indenture and for all reasonable expenses, charges, costs, liabilities, legal fees and other disbursements incurred in and about the performance of its powers and duties under the Series A Indenture;

(c) Any amounts due to the Trustee pursuant to Section 7.06 of the Series B Indenture for all services rendered under the Series B Indenture and for all reasonable expenses, charges, costs, liabilities, legal fees and other disbursements incurred in and about the performance of its powers and duties under the Series B Indenture;

(d) Any reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Pledge Agreement, the Sublease Agreement, the Indentures; and

(e) Any reasonable out-of-pocket expenses of the Authority in connection with the execution and delivery of this Pledge Agreement, the Sublease Agreement, the Remarketing Agreement, the Reimbursement Agreement, the Indentures, or in connection with the issuance of the Bonds, including any and all expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds, or incurred by the Authority in connection with any litigation which may at any time be instituted involving this Pledge Agreement, the Sublease Agreement, the Site and Facility Lease, the Bonds, the Indentures or any of the other documents contemplated hereby or thereby, or otherwise incurred in connection with the administration hereof or thereof.

ARTICLE IV

COVENANTS OF THE AGENCY

Section 4.01. Pledge of Net Property Tax Increment Revenues. The Agency's obligations under Section 3.01 shall be secured by a senior pledge of, and lien upon, the Net Property Tax Increment Revenues. The Net Property Tax Increment Revenues are hereby allocated to the payment of the Agency's obligations to the extent necessary to make the payments required by Section 3.01 as they become due. Except for the Net Property Tax Increment Revenues, no funds or properties of the Agency shall be pledged to, or otherwise liable for, the satisfaction of the Agency's obligations under this Pledge Agreement.

Section 4.02. Punctual Payment. The Agency will punctually pay or cause to be paid to the Trustee hereunder the Pledge Payments in strict conformity with the terms of this Pledge Agreement, and it will faithfully observe and perform all of the conditions, covenants and requirements of it under this Pledge Agreement.

Section 4.03. Limitation on Additional Debt.

(a) *Senior Indebtedness*. The Agency hereby covenants that, so long as the Bonds remain unpaid, the Agency shall not after the date hereof issue any bonds, notes or other obligations, enter into any agreement or otherwise incur any loans, advances or indebtedness, which is in any case secured by a lien on all or any part of the Net Property Tax Increment Revenues which is superior to the lien established hereunder for the security of the Agency's obligations under Section 3.01 hereof.

(b) *Parity Debt*. In addition to its obligations to make the Pledge Payments pursuant to Section 3.01 hereof, the Agency may, after the date hereof, issue or incur any Parity Debt in such principal amount as shall be determined by the Agency, subject to the following specific conditions which are hereby made conditions precedent to the issuance and delivery of such Parity Debt issued under this Section 4.03:

(i) No Event of Default shall have occurred and be continuing, and the Agency shall otherwise be in compliance with all covenants set forth in this Pledge Agreement.

(ii) The Net Property Tax Increment Revenues for the then current Fiscal Year, as set forth in a Written Certificate of the Agency, based on assessed valuation of property in the Project Area as evidenced in the written records of the County, plus at the option of the Agency the Additional Revenues, shall be at least equal to one hundred twenty percent (120%) of Maximum Annual Debt Service.

(iii) The related Parity Debt Instrument shall provide that:

(A) interest on such Parity Debt shall be payable on the Pledge Payment Dates during the term of such Parity Debt; and

(B) the principal of such Parity Debt shall not be payable on any date other than a Pledge Payment Date; and

(C) money shall be deposited in a reserve account created under such Parity Debt Instrument from the proceeds of said Parity Debt in an amount equal to Maximum Annual Debt Service on such Parity Debt.

(iv) The proceeds of such Parity Debt may be deposited into an escrow fund from which amounts may not be released to the Agency unless the Net Property Tax Increment Revenues for the most recent Fiscal Year (as evidenced in the written records of the County), plus at the option of the Agency the Additional Revenues, at least equals one hundred twenty percent (120%) of the amount of Maximum Annual Debt Service; *provided, however*, that the related Parity Debt Instrument shall provide that no amounts may be released from such escrow fund until all amounts have been released or otherwise withdrawn from the escrow fund established with respect to other Parity Debt which has previously been issued.

(v) The issuance of such Parity Debt shall not cause the Agency to exceed any applicable Plan Limitations. Without limiting the generality of the foregoing, the Agency shall not issue any Parity Debt in the event and to the extent that either (i) the amount of Maximum Annual Debt Service in any Bond Year following such issuance exceeds the aggregate amount of Net Property Tax Increment Revenues which are eligible under the Redevelopment Plan to be allocated to the Agency in any Fiscal Year, or (ii) the aggregate amount of debt service on all outstanding obligations of the Agency, including such Parity Debt, exceeds the aggregate amount of Net Property Tax Increment Revenues which are eligible under the Redevelopment Plan to be allocated and paid to the Agency during the period while such outstanding obligations remain outstanding, or (iii) the aggregate principal amount of all outstanding obligations of the Agency, including such Parity Debt, exceeds any applicable limit in the Redevelopment Plan on the aggregate principal amount of indebtedness which the Agency is permitted to have outstanding at any one time.

(vi) The Agency shall deliver to the Trustee a Written Certificate of the Agency certifying that the conditions precedent to the issuance of such Parity Debt set forth in subsections (a), (b), (c), (d) and (e) above have been satisfied.

Section 4.04. Payment of Claims. The Agency will pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the properties owned by the Agency or upon the Net Property Tax Increment Revenues or any part thereof, or which might impair the security for the Agency's obligations under Section 3.01 hereof. Nothing in this Pledge Agreement contained shall require the Agency to make any such payment so long as the Agency in good faith shall contest the validity of said claims, or any payment in respect of the Authority's interest in the Project.

Section 4.05. Books and Accounts; Financial Statement. The Agency will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Agency, in which complete and correct entries shall be made of all transactions relating to the Net Property Tax Increment Revenues. Such books of record and accounts shall at all times during business hours be subject, upon prior written request, to the reasonable inspection of the Trustee (although the Trustee shall have no duty to undertake any such inspection), the owners of any Bonds then outstanding, or their representatives authorized in writing.

Section 4.06. Payments of Taxes and Other Charges. The Agency will pay and discharge, or cause to be paid and discharged, all taxes, service charges, assessments and other governmental charges which may hereafter be lawfully imposed upon the Agency or the properties then owned by the Agency in the Project Area, when the same shall become due. Nothing in this Pledge Agreement contained shall require the Agency to make any such payment so long as the Agency in good faith shall contest the validity of said taxes, assessments or charges. The Agency will duly observe and conform with all valid requirements of any governmental authority relative to the Project Area or any part thereof.

Section 4.07. Disposition of Property. From and after the date of this Pledge Agreement, the Agency will not participate in the disposition of any of the Mall Parcels to anyone which will result in such property becoming exempt from taxation because of public ownership or use or otherwise (except property dedicated for public right-of-way and except property planned for public ownership or use by any redevelopment plan for the Project Area in effect on the date of this Pledge Agreement) so that such disposition shall, when taken together with other such dispositions of the Mall Parcels, aggregate more than ten percent (10%) of the land area of the Mall Parcels unless such disposition is permitted as hereafter provided in this Section 4.07. If the Agency proposes to participate in such a disposition, it shall thereupon engage (at the cost of the Agency and without cost to the Authority) an Independent Redevelopment Consultant to report on the effect of said proposed disposition. If the Report of the Independent Redevelopment Consultant concludes that the security for the Agency's obligations under Section 3.01 and Section 4.04 will not be materially impaired by said proposed disposition, the Agency may thereafter make such disposition. If said Report concludes that such security will be materially impaired by said proposed disposition, the Agency shall not participate in said proposed disposition.

Section 4.08. Maintenance of Net Property Tax Increment Revenues. The Agency shall comply with all requirements of the Community Redevelopment Law to insure the allocation and payment to it of the Net Property Tax Increment Revenues, including without limitation the timely filing of any necessary statements of indebtedness with appropriate officials of the County and (in the case of supplemental revenues and other amounts payable by the State) appropriate officials of the State. The Agency shall not enter into any agreement with the County or any other governmental unit, which would have the effect of reducing the amount of Net Property Tax Increment Revenues available to the Agency for payment of its obligations under Section 3.01 and Section 4.03 hereof, unless the Agency shall first obtain the Report of an Independent Redevelopment Consultant stating that the Net Property Tax Increment Revenues estimated to be received in the current Fiscal Year based on current assessed valuation and available for the purposes of this Pledge Agreement shall be at least equal to one hundred percent (100%) of the payments required under Section 3.01 and Section 4.03 for such Fiscal Year. Nothing in this Pledge Agreement is intended or shall be construed in any way to prohibit or impose any limitations on the entering into by the Agency of any such agreement, amendment or supplement which by its term is subordinate to the payment of its obligations under Section 3.01 hereof. The Agency will not make any findings under Section 33334.2 of the Community Redevelopment Law that would impair its obligations under Section 3.01 hereof.

Section 4.09. Annual Review of Net Property Tax Increment Revenues. The Agency shall annually review (i) the aggregate amount of Net Property Tax Increment Revenues, and (ii) all future debt service and other obligations payable by the Agency from Net Property Tax Increment Revenues, assuming for such purpose that the obligation for future Pledge Payments will be in the amounts and on the dates set forth in Exhibit A to this Pledge Agreement. The Agency shall not accept such taxes in any year in an amount which will cause the amount remaining under such limitation to be less than the amount required to permit the payment by the Agency of the debt service and other obligations described in clause (ii) above, or create a sinking fund with such excess funds to be used to satisfy its obligations under this Pledge Agreement.

Section 4.10. Protection of Security. The Agency agrees to contest any assertion by any officer of any governmental entity or any other person with respect to the enforceability of the Agency's obligations hereunder. From and after the issuance of the Bonds, the Agency's obligations hereunder shall be incontestable by the Agency.

Section 4.11. Further Assurances. The Agency will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of the obligations on its part under this Pledge Agreement and for the better assuring and confirming unto the Trustee and the Owners of the Bonds and the Bank of the rights and benefits provided in Section 3.01 and this Article IV.

ARTICLE V

COVENANTS OF THE AUTHORITY

Section 5.01. General Covenants of the Authority. The Authority agrees to comply with all of its obligations under the Series A Indenture, the Series B Indenture and the Sublease Agreement.

Section 5.02. Indemnity. The Authority covenants and agrees to indemnify and save the Agency, the Trustee and their respective officers, directors, agents and employees, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise and performance of their powers and duties under this Pledge Agreement, the Series A Indenture or the Series B Indenture, including the costs and expenses of defending against any claim of liability, but excluding any and all losses, expenses and liabilities which are due to the negligence or willful misconduct of the Agency or the Trustee, or their respective officers, directors, agents or employees. The obligations of the Authority under this paragraph shall survive the resignation or removal of the Trustee under the Series A Indenture or the Series B Indenture or any defeasance of the Bonds.

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES

Section 6.01. Events of Default. The following events shall constitute Events of Default hereunder:

(a) Failure by the Agency to make Pledge Payments or payments with respect to any Parity Debt when and as the same shall become due and payable.

(b) Failure by the Agency to observe and perform any of the covenants, agreements or conditions on its part contained in this Pledge Agreement, other than as referred to in the preceding clause (a), for a period of sixty (60) days after written notice specifying such failure and requesting that it be remedied has been given to the Agency by the Trustee; *provided, however*, that if in the reasonable opinion of the Agency the failure stated in such notice can be corrected, but not within such sixty (60) day period, such failure shall not constitute an Event of Default if corrective action is instituted by the Agency within such sixty (60) day period and thereafter is diligently pursued until such failure is corrected.

(c) The filing by the Agency of a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Agency, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Agency or of the whole or any substantial part of its property.

If an Event of Default has occurred and is continuing, the Trustee may, and at the written direction of the Owners of a majority in aggregate principal amount of the Outstanding Bonds or the Bank (so long as the Bank is honoring draws under the Letter of Credit) the Trustee shall, subject to the provisions of the Series A Indenture or the Series B Indenture, exercise any remedies available to the Trustee in law or at equity. Immediately upon becoming aware of the occurrence of an Event of Default, the Trustee shall give notice of such Event of Default to the Agency by telephone, telecopier or other telecommunication device, promptly confirmed in writing.

Section 6.02. Application of Funds Upon Default. All amounts received by the Trustee pursuant to any right given or action taken by the Trustee under the provisions of Article VI of this Pledge Agreement, shall be applied by the Trustee to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in carrying out the provisions of this Article V, including reasonable compensation to its agents, attorneys and counsel; and

(a) *first*, to the payment of all installments of interest on the Pledge then due and unpaid, on a pro rata basis in the event that the available amounts are insufficient to pay all such interest in full,

(b) *second*, to the payment of all installments of principal of the Pledge then due and payable, on a pro rata basis in the event that the available amounts are installments of principal in full, and

(c) *third*, to the payment of interest on overdue installments of principal and interest, on a pro rata basis in the event that the available amounts are insufficient to pay all such interest in full.

Section 6.03. No Waiver. Nothing in this Article VI or in any other provision of this Pledge Agreement, shall affect or impair the obligation of the Agency, which is absolute and unconditional, to pay from the Tax Revenues and other amounts pledged hereunder, the principal of and interest and premium (if any) on the Pledge to the Trustee when due, as herein provided, or affect or impair the right of action, which is also absolute and unconditional, of the Trustee to institute suit to enforce such payment by virtue of the contract embodied in this Pledge Agreement.

A waiver of any default by the Trustee shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of the Trustee to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Trustee by the Community Redevelopment Law or by this Article V may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee.

If a suit, action or proceeding to enforce any right or exercise any remedy shall be abandoned or determined adversely to the Trustee, the Agency and the Trustee shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

Section 6.04. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Agreement should default under any of the provisions hereof and the nondefaulting party or the Trustee should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party or the Trustee, as the case may be, the reasonable fees of such attorneys and such other expenses so incurred.

Section 6.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Community Redevelopment Law or any other law.

ARTICLE VII

MISCELLANEOUS

Section 7.01. No Agency Liability on Bonds. The Agency shall have no liability for payment of the Bonds except as set forth in Section 3.01 hereof.

Section 7.02. Benefits Limited to Parties; No Agency Liability for Projects. Nothing in this Pledge Agreement, expressed or implied, is intended to give to any person other than the Agency, the Trustee and the Authority any right, remedy or claim under or by reason of this Pledge Agreement. All covenants, stipulations, promises or agreements in this Pledge Agreement contained by and on behalf of the Agency or the Authority shall be for the sole and exclusive benefit of the Authority, the Agency and of the Trustee acting as trustee for the benefit of the Owners of the Bonds and the Bank.

The Agency shall have no liability whatsoever with respect to the Project, including but not limited to any liability related to the acquisition, rehabilitation, maintenance or operation of the Project.

Section 7.03. Obligations of the Authority. All of the obligations of the Authority under this Pledge Agreement shall apply only to the Authority and any person who expressly assumes in writing all or any portion of the Authority's obligations under this Pledge Agreement.

Section 7.04. Successor is Deemed Included in All References to Predecessor; Assignment. Whenever in this Pledge Agreement any of the Agency, the Authority or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Pledge Agreement contained by or on behalf of the Agency, the Authority or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

The Authority shall not assign any of its rights or responsibilities under this Pledge Agreement without the prior written consent of the Agency. The Trustee shall not assign its rights or responsibilities under this Pledge Agreement, except to a successor trustee under the Series A Indenture or the Series B Indenture.

Section 7.05. Amendment. This Pledge Agreement may be amended by the parties to this Pledge Agreement by written instrument, but only in a manner consistent with the provisions of Article IX of the Series A Indenture (so long as the Series A Bonds are Outstanding), Article VIII of the Series B Indenture (so long as the Series B Bonds are Outstanding) and with the prior consent of the Bank (so long as the Bank is honoring draws under the Letter of Credit). The Authority and the Trustee covenant that the Series A Indenture and the Series B Indenture shall not be amended in any manner which adversely affects the Agency's liability hereunder without the prior written consent of the Agency.

Section 7.06. Waiver of Personal Liability. No member, officer, agent or employee of the Agency shall be individually or personally liable for the obligations of the Agency under this Pledge Agreement; but nothing contained in this Pledge Agreement shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law. No director, officer, agent or employee of the Authority shall be individually or personally liable for the obligations of the Authority hereunder unless such person expressly assumes in writing all or any portion of the Authority's obligations hereunder.

Section 7.07. Notices. All written notices to be given under this Pledge Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other parties in writing from time to time. Notice shall be effective 48 hours after deposit in the United States mail, postage prepaid or, in the case of any notice to the Trustee or in the case of personal delivery to any person, upon actual receipt at the address set forth below:

If to the Authority:	Mission Viejo Community Development Financing Authority 25909 Pala, Suite 150 Mission Viejo, CA 92691 Attention: Executive Director Telephone: (949) 470-3007 Telecopier: (949) 859-1386
If to the Agency:	Community Development Agency of the City of Mission Viejo 25909 Pala, Suite 150 Mission Viejo, CA 92691 Attention: Executive Director Telephone: (949) 470-3007 Telecopier: (949) 859-1386
If to the Trustee:	BNY Western Trust Company 700 South Flower, Suite 500 Los Angeles, CA 90017 Attention: Corporate Trust Department Telephone: (213) 630-6229 Telecopier: (213) 630-6215
If to the Bank:	Union Bank of California, N.A. 445 South Figueroa Street G16-450 Los Angeles, CA 90071 Attention: Public Finance Unit Re: Mission Viejo Telephone: (213) 236-6434 Telecopier: (213) 236-6450
If to the Confirming Bank:	State Teachers' Retirement System 7667 Folsom Boulevard Sacramento, CA 95826 Attention: Mr. Richard Rose, Investment Officer Re: UBOC/Mission Viejo Telephone: (916) 229-3697 Telecopier: (916) 229-3298

Section 7.08. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Pledge Agreement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Pledge Agreement. The Agency and the Authority hereby declare that they would have entered into this Pledge Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Pledge Agreement may be held illegal, invalid or unenforceable.

Section 7.09. Applicable Law. This Pledge Agreement shall be governed by and construed in accordance with the laws of the State.

IN WITNESS WHEREOF, the COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO and the MISSION VIEJO COMMUNITY DEVELOPMENT FINANCING AUTHORITY have caused this Pledge Agreement to be signed by their respective officers, all as of the day and year first above written.

COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF MISSION VIEJO

By _____
Board Member

Attest:

_____
Secretary

MISSION VIEJO COMMUNITY
DEVELOPMENT FINANCING
AUTHORITY

By _____
Board Member

Attest:

_____
Secretary

CONTRACT # A14-17

SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO

AGREEMENT FOR CONSULTANT SERVICES (HdL COREN & CONE)

This **AGREEMENT FOR CONSULTANT SERVICES (HdL COREN & CONE)** ("Agreement") is made and effective as of **July 1, 2014**, between the **SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO**, a public body corporate and politic, ("Successor Agency") and **HdL COREN & CONE**, a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM.** This Agreement shall commence on **July 1, 2014**, and shall remain and continue in effect until tasks described herein are completed, but in no event later than **June 30, 2017**, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES.** Consultant shall perform the tasks described and set forth in **Exhibit A**, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in **Exhibit A**.

3. **PERFORMANCE.** Consultant shall at all times faithfully, competently and to the best of his or her ability, experience, and talent, perform all tasks described herein. Consultant represents to the Successor Agency that it has the qualifications necessary to perform the tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. **PAYMENT.**

a. Subject to the Dissolution Act, the Successor Agency agrees to pay Consultant quarterly, in accordance with the payment rates and terms and the Compensation schedule set forth in **Exhibit B** attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the tasks described in Exhibit A. This amount shall not exceed **Sixteen Thousand Five Hundred Dollars ($16,500.00)** for each twelve month fiscal year (July through June) of the three year term of this Agreement, a maximum of **Forty nine thousand five hundred dollars ($49,500.00)** unless additional payment is approved as provided in this Agreement. Any terms or conditions set forth on **Exhibit A or Exhibit B** that do not describe the work to be performed, the payment rates and terms, or the payment schedule have not been agreed to by the Successor Agency and shall not be deemed a part of this Agreement.

b. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the Successor Agency (and approved by the Oversight Board, as and if applicable.) Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by the Successor Agency and Consultant at the time Successor Agency's written authorization is given to Consultant for the performance of said services. The Successor Agency may approve additional work not to exceed a cumulative contract total of thirty thousand dollars

($30,000.00). Any additional work in excess of this amount shall be approved by the Oversight Board and the Successor Agency.

c. Consultant shall submit invoices quarterly for actual services performed. Invoices shall be submitted on or about the first business day of each quarter, for services provided in the previous quarter. Payment shall be made within thirty (30) days of receipt of each invoice as to all nondisputed fees. If the Successor Agency disputes any of consultant's fees it shall give written notice to Consultant within 30 days of receipt of an invoice of any disputed fees set forth on the invoice.

d. Notwithstanding the above provisions, Consultant shall not be paid for any work performed until it has submitted to the Successor Agency a fully completed and executed Internal Revenue Service Form W-9.

5. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE.

a. The Successor Agency may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days prior written notice of termination. Successor Agency shall not be obligated to explain its reasons for termination. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the Successor Agency suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the Successor Agency shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the Successor Agency. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the Successor Agency pursuant to Section 4.

6. DEFAULT OF CONSULTANT.

a. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, Successor Agency shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

b. If the City Manager acting on behalf of the Successor Agency or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the Successor Agency shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

7. OWNERSHIP OF DOCUMENTS.

a. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by Successor Agency that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of Successor Agency or its designees at reasonable times to such books and records, shall give Successor Agency the right to examine and audit said books and records, shall permit Successor Agency to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the Successor Agency and may be used, reused or otherwise disposed of by the Successor Agency without the permission of the Consultant. With respect to computer files, Consultant shall make available to the Successor Agency, upon reasonable written request by the Successor Agency, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. **INDEMNIFICATION.** The Consultant agrees to defend, indemnify, protect and hold harmless the Successor Agency, the City of Mission Viejo, and the Mission Viejo Housing Authority and their officers, elected and appointed officials, employees, agents, and volunteers ("Indemniteees") from and against any and all claims, demands, losses, defense costs or expenses, or liability of any kind or nature which the Indemniteees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Consultant's actions, inaction, negligence, intentional misconduct, errors or omissions in performing or failing to perform under the terms of this Agreement, excepting only liability arising out of the affirmative negligence or willful misconduct of the Successor Agency.

9. **INDEPENDENT CONTRACTOR.**

a. Consultant is and shall at all times remain as to the Successor Agency a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither Successor Agency nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the Successor Agency. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against Successor Agency, or bind Successor Agency in any manner.

b. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, Successor Agency shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for Successor Agency. Successor Agency shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

10. LEGAL RESPONSIBILITIES. The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The Successor Agency, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

11. RELEASE OF INFORMATION.

a. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without Successor Agency's prior written authorization. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager acting on behalf of the Successor Agency or unless requested by the Successor Agency legal counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the Successor Agency. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives Successor Agency notice of such court order or subpoena.

b. Consultant shall promptly notify Successor Agency should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any person regarding this Agreement and the work performed thereunder or with respect to any project or property located within the Successor Agency. Successor Agency retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with Successor Agency and to provide Successor Agency with the opportunity to review any response to discovery requests provided by Consultant. However, Successor Agency's right to review any such response does not imply or mean the right by Successor Agency to control, direct, or rewrite said response.

12. NOTICES. Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice:

To Successor Agency:
Successor Agency of the Community Development Agency of the City of Mission Viejo
200 Civic Center
Mission Viejo, California 92691
Attention: Successor Agency Director of Administrative Services

To Consultant: HdL Coren & Cone
1340 Valley Vista Drive, Ste. 200
Diamond Bar, CA 91765
Attn: Martin Coren

13. ASSIGNMENT. The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the Successor Agency. Because of the personal nature of the services to be rendered pursuant to this Agreement, only **Martin Coren** shall perform the services described in this Agreement. **Martin Coren** may use assistants, under their direct supervision, to perform some of the services under this Agreement. Consultant shall provide Successor Agency fourteen (14) days' notice prior to the departure of **Martin Coren** from Consultant's employ. Should he or she leave Consultant's employ, the Successor Agency shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

14. LICENSES. At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

15. GOVERNING LAW. The Successor Agency and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

16. LITIGATION. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the Successor Agency of Mission Viejo. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

17. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

18. AUTHORITY TO EXECUTE THIS AGREEMENT. The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CONSULTANT:

HdL COREN & CONE, a California corporation

By: Martin Coren

By: Paula Cone

SUCCESSOR AGENCY:

SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO

By: _____
Executive Director or Authorized Designee

ATTEST:

_____
City Clerk
on behalf of the Successor Agency

APPROVED AS TO FORM

_____
Special Counsel to Successor Agency

EXHIBIT A

SCOPE OF SERVICES

The CONTRACTOR shall perform the following services:

A. Annually, after the Property Tax Roll is available:

1. CONTRACTOR shall establish a Data Base for SUCCESSOR AGENCY and install the Data Base on a personal computer or network

2. Utilizing the Data Base, CONTRACTOR will provide
   a. A listing of the major property owners in the SUCCESSOR AGENCY, including the assessed value of their property
   b. A listing of the major property tax payers, including an estimate of the property taxes
   c. A listing of property tax transfers which occurred since the prior lien date
   d. A listing of parcels that have not changed ownership since the enactment of Proposition XIIIA
   e. A comparison of property within the SUCCESSOR AGENCY by county-use code designation
   f. A listing by parcel of new construction activity utilizing Successor Agency building department data, including building permits with assessor parcel numbers and project completion dates, to identify non-residential parcels with new construction activity and to provide reports for use in the SUCCESSOR AGENCY's preparation of Proposition 4 and 111 State Appropriation Limit calculations.
   g. A listing of multiple owned parcels
   h. A listing of absentee owner parcels
   i. Calculate an estimate of property tax revenue anticipated to be received for the fiscal year by the SUCCESSOR AGENCY. This estimate is based upon the initial information provided by the County and is subject to modification. This estimate shall not be used to secure the indebtedness of the SUCCESSOR AGENCY.
   j. Upon written request, analyses based on geographic areas designated by the SUCCESSOR AGENCY to include assessed valuations and square footage computations for use in community development planning.

B. QUARTERLY

1. A listing of property tax appeals filed on properties in the SUCCESSOR AGENCY (selected counties).

2. A listing of property transfers that have occurred since the last report.

3. An update of computer program parcel transfer data.

C. ANALYSIS AND IDENTIFICATION OF MISALLOCATION ERRORS

1. In the first year of this Agreement, and as necessary thereafter but not less than once every two years, CONTRACTOR shall conduct an analysis to identify and verify in the SUCCESSOR AGENCY parcels on the secured Property Tax Roll which are not properly attributed to a SUCCESSOR AGENCY, and will provide the correct TRA designation to the proper County agency. Typical errors include parcels assigned to incorrect TRAs within the SUCCESSOR AGENCY or an adjacent Successor Agency, and TRAs allocated to wrong taxing agencies.

2. CONTRACTOR shall reconcile the annual auditor-controller assessed valuations report to the assessor's lien date rolls and identify discrepancies.

3. CONTRACTOR shall review parcels on the unsecured Property Tax Roll to identify inconsistencies such as value variations, values being reported to a mailing address rather than the situs address, and errors involving TRAs (to the extent records are available).

4. CONTRACTOR may audit documentary transfer tax remittance detail provided by Orange County and identify misallocations that may be recovered for SUCCESSOR AGENCY.

D. ON-GOING CONSULTATION - During the term of this Agreement, CONTRACTOR will serve as the SUCCESSOR AGENCY's resource staff on questions relating to property tax in general and specifically as it relates to the Shops at Mission Viejo and related bond requirements, and assist in estimating current year property tax revenues. On-going consultation would include, but not be limited to, inquiries resolved through use of the SUCCESSOR AGENCY's data base.

E. OPTIONAL SERVICES - The following services are available on a time and materials basis

1. Generation of specialized data-based reports which would require additional programming or the purchase of additional data not necessary to carry out services outlined in Sections A, B, and C.

2. Any research with county agencies for which CONTRACTOR does not have a current database.

3. Redevelopment Financial Services including but not limited to:

   (a) Tax increment projections
   (b) Cash flows for the Successor Agency by Project Area
   (c) Assistance with Redevelopment Obligation Payment Schedules

(d) Assistance in providing property tax information for the taxing agencies receiving property tax revenues from former Project Areas

(e) Estimates of property tax revenues to be received by the taxing entities from former Project Areas

(f) Provide property tax information to the Oversight Board at the direction of the Successor Agency

(g) Provide access to the Oversight Board to SUCCESSOR AGENCY and former redevelopment agency documents at the direction of the Successor Agency

(h) Monitor the County distribution of tax-sharing revenues to the taxing entities of the former redevelopment agency

(i) Coordinate with the Auditor-Controller the relationship between the tax-sharing, debt service and other obligations of former redevelopment agency

(j) Prepare as needed an assessment resources available to the Successor Agency to meet the long term obligations of the former redevelopment agency

(k) Coordination and assistance with developing a long range property management plan

(l) Agency or Project Area cash flows

(m) Low and moderate income housing set-aside calculations, findings and consultations

(n) Fiscal impact studies

(o) Legislative analysis

F. BOND SERVICES - Bond services are available for a fixed fee, including

1. Tax Allocation Bonds fiscal consultant reports
2. Mello-Roos Special Tax studies
3. Independent redevelopment and financial consultant reports, such as escrow release reports and additional bond tests

EXHIBIT B

Compensation

Contractor shall provide the services described in Exhibit A for an annual fee not to exceed of $16,500.00, with work performed to be invoiced quarterly.

CONTRACT # A14-17A

SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO

FIRST AMENDMENT TO AGREEMENT WITH HdL COREN & CONE

THIS FIRST AMENDMENT TO CONSULTANT AGREEMENT (hereafter "Amendment") is made and effective as of July 1, 2017, by and between the SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO, a public body corporate and politic, (hereafter "Successor Agency") and HdL (hereafter "Consultant"). In consideration of the mutual promises and covenants contained herein, the parties hereto mutually agree as follows:

1. This Amendment is made and entered into with respect to the following facts:

   a. On July 1, 2014, the Successor Agency and Consultant entered into that certain agreement entitled "Successor Agency of the Community Development Agency of the City of Mission Viejo Agreement for Consultant Services with HdL Coren & Cone" in which the Consultant agreed to provide certain services for the Successor Agency (hereafter "Agreement"). The California Department of Finance approved this Agreement in a letter dated August 19, 2014.

   b. Successor Agency and Consultant desire to make certain modifications to the Agreement as set forth in this Amendment.

2. Section 1 (Term), and 4 (Payment) of the Agreement is hereby amended to read as follows:

1. Term. This Agreement shall commence on July 1, 2014 and shall remain and continue in effect until tasks described herein (Debt Service calculations related to Mission Viejo Community Development Financing Authority Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project) 1999 Series A) are completed, but in no event later than June 30, 2018, unless sooner terminated pursuant to the provisions of this Agreement. This Agreement is subject to California State Department of Finance approval.

4. Payment. Subject to the Dissolution Act, the Successor Agency agrees to pay Consultant quarterly, in accordance with the payment rates and terms and the Compensation schedule set forth in Exhibit B attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the tasks described in Exhibit A. This amount shall not exceed **Sixteen Thousand Five Hundred Dollars ($16,500.00)** for each twelve-month fiscal year (July through June) of the four-year term of this Agreement, a maximum of **Sixty-six Thousand Dollars ($66,000.00)** unless additional payment is approved as provided in this Agreement. Any terms or conditions set for on Exhibit A or Exhibit B that do not describe the work to be performed, the payment rates and terms, or the payment schedule have not been agreed to by the Successor Agency and shall not be deemed a part of this Agreement.

3. Except as otherwise specifically provided in this Amendment, all other terms and provisions of the Agreement shall remain in full force and effect.

Consultant:

By: DAVID SCHEY Date 5-3-2017
Title: VICE PRESIDENT
Attest:

Karen Hamman 5/4/17
Karen Hamman Date
City Clerk
On behalf of the Successor Agency

Successor Agency to the Community Development Agency of the City of Mission Viejo

5/4/17
By: Date
Title:

CONTRACT # A18-01

SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO

AGREEMENT FOR CONSULTANT SERVICES (HdL COREN & CONE)

This **AGREEMENT FOR CONSULTANT SERVICES (HdL COREN & CONE)** ("Agreement") is made and effective as of **July 1, 2018**, between the **SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO**, a public body corporate and politic, ("Successor Agency") and **HdL COREN & CONE**, a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM.** This Agreement shall commence on **July 1, 2018**, and shall remain and continue in effect until tasks described herein are completed, but in no event later than **June 30, 2022**, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES.** Consultant shall perform the tasks described and set forth in **Exhibit A**, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in **Exhibit A**.

3. **PERFORMANCE.** Consultant shall at all times faithfully, competently and to the best of his or her ability, experience, and talent, perform all tasks described herein. Consultant represents to the Successor Agency that it has the qualifications necessary to perform the tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. **PAYMENT.**

a. Subject to the Dissolution Act, the Successor Agency agrees to pay Consultant quarterly, in accordance with the payment rates and terms and the Compensation schedule set forth in **Exhibit B** attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the tasks described in Exhibit A. This amount shall not exceed **Sixteen Thousand Five Hundred Dollars ($16,500.00)** for each twelve month fiscal year (July through June) of the four year term of this Agreement, a maximum of **Sixty-six thousand dollars ($66,000.00)** unless additional payment is approved as provided in this Agreement. Any terms or conditions set forth on **Exhibit A or Exhibit B** that do not describe the work to be performed, the payment rates and terms, or the payment schedule have not been agreed to by the Successor Agency and shall not be deemed a part of this Agreement.

b. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the Successor Agency (and approved by the Oversight Board, as and if applicable.) Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by the Successor Agency and Consultant at the time Successor Agency's written authorization is given to Consultant for the performance of said services. The Successor Agency may approve additional work not to exceed a cumulative contract total of thirty thousand dollars

($30,000.00). Any additional work in excess of this amount shall be approved by the Oversight Board and the Successor Agency.

c. Consultant shall submit invoices quarterly for actual services performed. Invoices shall be submitted on or about the first business day of each quarter, for services provided in the previous quarter. Payment shall be made within thirty (30) days of receipt of each invoice as to all nondisputed fees. If the Successor Agency disputes any of consultant's fees it shall give written notice to Consultant within 30 days of receipt of an invoice of any disputed fees set forth on the invoice.

d. Notwithstanding the above provisions, Consultant shall not be paid for any work performed until it has submitted to the Successor Agency a fully completed and executed Internal Revenue Service Form W-9.

5. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE.

a. The Successor Agency may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days prior written notice of termination. Successor Agency shall not be obligated to explain its reasons for termination. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the Successor Agency suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the Successor Agency shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the Successor Agency. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the Successor Agency pursuant to Section 4.

6. DEFAULT OF CONSULTANT.

a. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, Successor Agency shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

b. If the City Manager acting on behalf of the Successor Agency or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the Successor Agency shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

7. OWNERSHIP OF DOCUMENTS.

a. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by Successor Agency that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of Successor Agency or its designees at reasonable times to such books and records, shall give Successor Agency the right to examine and audit said books and records, shall permit Successor Agency to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the Successor Agency and may be used, reused or otherwise disposed of by the Successor Agency without the permission of the Consultant. With respect to computer files, Consultant shall make available to the Successor Agency, upon reasonable written request by the Successor Agency, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. INDEMNIFICATION. The Consultant agrees to defend, indemnify, protect and hold harmless the Successor Agency, the City of Mission Viejo, and the Mission Viejo Housing Authority and their officers, elected and appointed officials, employees, agents, and volunteers ("Indemniteees") from and against any and all claims, demands, losses, defense costs or expenses, or liability of any kind or nature which the Indemniteees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Consultant's actions, inaction, negligence, intentional misconduct, errors or omissions in performing or failing to perform under the terms of this Agreement, excepting only liability arising out of the affirmative negligence or willful misconduct of the Successor Agency.

9. INDEPENDENT CONTRACTOR.

a. Consultant is and shall at all times remain as to the Successor Agency a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither Successor Agency nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the Successor Agency. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against Successor Agency, or bind Successor Agency in any manner.

b. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the

Agreement, Successor Agency shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for Successor Agency. Successor Agency shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

10. LEGAL RESPONSIBILITIES. The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The Successor Agency, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

11. RELEASE OF INFORMATION.

a. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without Successor Agency's prior written authorization. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager acting on behalf of the Successor Agency or unless requested by the Successor Agency legal counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the Successor Agency. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives Successor Agency notice of such court order or subpoena.

b. Consultant shall promptly notify Successor Agency should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any person regarding this Agreement and the work performed thereunder or with respect to any project or property located within the Successor Agency. Successor Agency retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with Successor Agency and to provide Successor Agency with the opportunity to review any response to discovery requests provided by Consultant. However, Successor Agency's right to review any such response does not imply or mean the right by Successor Agency to control, direct, or rewrite said response.

12. NOTICES. Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice:

To Successor Agency: Successor Agency of the Community Development Agency of the City of Mission Viejo
200 Civic Center
Mission Viejo, California 92691
Attention: Director of Administrative Services

To Consultant: HdL Coren & Cone
1340 Valley Vista Drive, Ste. 200
Diamond Bar, CA 91765
Attention: David Schey, Vice President

13. ASSIGNMENT. The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the Successor Agency. Because of the personal nature of the services to berendered pursuant to this Agreement, only the **Consultant** shall perform the services described in this Agreement. **Consultants** may use assistants, under their direct supervision, to perform some of the services under this Agreement.

14. LICENSES. At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

15. GOVERNING LAW. The Successor Agency and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

16. LITIGATION. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the Successor Agency of Mission Viejo. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

17. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

18. AUTHORITY TO EXECUTE THIS AGREEMENT. The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CONSULTANT:

HdL COREN & CONE, a California corporation

By: David Schey, Vice President

By: Nichole Cone, Vice President/Secretary

SUCCESSOR AGENCY:

SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO

By: _____
Executive Director or Authorized Designee

ATTEST:

_____
City Clerk
on behalf of the Successor Agency

EXHIBIT A

SCOPE OF SERVICES

The CONTRACTOR shall perform the following services:

A. ANNUALLY, AFTER THE PROPERTY TAX ROLL IS AVAILABLE:

1. CONTRACTOR shall provide access to a property tax Data Base for SUCCESSOR AGENCY that is accessible to SUCCESSOR AGENCY staff at no additional cost.

2. Utilizing the Data Base, CONTRACTOR will provide

a. A listing of the major property owners in the SUCCESSOR AGENCY, including the assessed value of their property
b. A listing of the major property tax payers, including an estimate of the property taxes
c. A listing of property tax transfers which occurred since the prior lien date
d. A listing of parcels that have not changed ownership since the enactment of Proposition XIIIA
e. A listing of property within the SUCCESSOR AGENCY by county-use codedesignation
f. A listing by parcel of new construction activity utilizing Successor Agency building department data, including building permits with assessor parcel numbers and project completion dates, to identify non-residential parcels with new construction activity and to provide reports for use in the SUCCESSOR AGENCY's preparation of Proposition 4 and 111 State Appropriation Limit calculations.
g. A listing of multiple owned parcels
h. A listing of absentee ownerparcels
i. Calculate estimated property tax revenue anticipated to be received for the fiscal year by the SUCCESSOR AGENCY. This estimate is based upon the initial information provided by the County and is subject to modification. This estimate shall not be used to secure the indebtedness of the SUCCESSOR **AGENCY.**
j. Upon written request, analyses based on geographic areas designated by the SUCCESSOR AGENCY to include assessed valuations and square footage computations for use in community development planning.
k. **In accordance with the Pledge Agreement, dated May 1, 1999 between the former redevelopment agency (now SUCCESSOR AGENCY), in order to facilitate placement of necessary amounts on the SUCCESSOR AGENCY's annual ROPS, CONTRACTOR will annually provide the SUCCESSOR AGENCY with a calculation of the tax increment revenue**

generated within the Shops at Mission Viejo mall properties that will be available for payment of debt service on outstanding SUCCESSOR AGENCY bonds..

B. QUARTERLY

1. A listing of assessment appeals filed on properties within the **SUCCESSOR AGENCY.**

2. A listing of property transfers that have occurred since the last report.

3. An update of computer program parcel transfer data.

C. ANALYSIS AND IDENTIFICATION OF MISALLOCATION ERRORS

1. In the first year of this Agreement, and as necessary thereafter but not less than once every two years, CONTRACTOR shall conduct an analysis to identify and verify in the SUCCESSOR AGENCY parcels on the secured Property Tax Roll which are not properly attributed to a SUCCESSOR AGENCY, and will provide the correct TRA designation to the proper County agency. Typical errors include parcels assigned to incorrect TRAs within the SUCCESSOR AGENCY or an adjacent Successor Agency, and TRAs allocated to wrong taxing agencies.

2. CONTRACTOR shall reconcile the annual Auditor-Controller assessed valuations report to the Assessor's lien date rolls and identify discrepancies.

3. CONTRACTOR shall review parcels on the unsecured Property Tax Roll to identify inconsistencies such as value variations, values being reported to a mailing address rather than the situs address, and errors involving TRAs (to the extent records are available).

4. CONTRACTOR may audit documentary transfer tax remittance detail provided by Orange County and identify misallocations that may be recovered for SUCCESSOR AGENCY.

D. **ON-GOING CONSULTATION - During the term of this Agreement, CONTRACTOR will serve as the SUCCESSOR AGENCY's resource staff on questions relating to property tax in general and specifically as it relates to the Shops at Mission Viejo and related bond requirements, and assist in estimating current year property tax revenues for their inclusion in the SUCCESSOR AGENCY annual ROPS in accordance with the Pledge Agreement, and assist in estimating the six-month and annual Mall Bond tax increment payments and Mall TRA Secured and Unsecured Debt Service Factors to assist the County of Orange Auditor-Controller in processing pass-through payments to Mission Viejo correctly and timely. On-going consultation would include, but not be limited to, inquiries resolved through use of the SUCCESSOR AGENCY's data base.**

E. OPTIONAL SERVICES - The following services are available on a time and materials basis

1. Generation of specialized data-based reports which would require additional programming or the purchase of additional data not necessary to carry out services outlined in Sections A, 8, and C.
2. Any research with county agencies for which CONTRACTOR does not have a current database.
3. Redevelopment Financial Services including but not limited to:

   (a) Tax increment projections
   (b) Cash flows for the Successor Agency by Project Area
   (c) Assistance with Redevelopment Obligation Payment Schedules
   (d) Assistance in providing property tax information for the taxing agencies receiving property tax revenues from former Project Areas
   (e) Estimates of property tax revenues to be received by the taxing entities from former Project Areas
   (f) Provide property tax information to the Oversight Board at the direction of the Successor Agency
   (g) Provide access to the Oversight Board to SUCCESSOR AGENCY and former redevelopment agency documents at the direction of the Successor Agency
   (h) Monitor the County distribution of tax-sharing revenues to the taxing entities of the former redevelopment agency
   (i) Coordinate with the Auditor-Controller the relationship between the tax-sharing debt service and other obligations of former redevelopment agency
   0) Prepare as needed an assessment resources available to the Successor Agency to meet the long term obligations of the former redevelopment agency
   (k) Coordination and assistance with developing a long range property management plan
   (l) Agency or Project Area cash flows
   (m) Low and moderate income housing set-aside calculations, findings and consultations
   (n) Fiscal impact studies
   (o) Legislative analysis

F. BOND SERVICES - Bond services are available for a fixed fee, including

1. Tax Allocation Bonds fiscal consultant reports
2. Mello-Roos Special Tax studies
3. Independent redevelopment and financial consultant reports, such as escrow release reports and additional bond tests

EXHIBIT B

Compensation

Contractor shall provide the services described in Exhibit A for an annual fee not to exceed of $16,500.00, with work performed to be invoiced quarterly.

Orange Countywide Oversight Board

Date: 9/18/2018 Agenda Item No. 9D

From: Successor Agency to the San Juan Capistrano Community Redevelopment Agency

Subject**:** Resolution of the Countywide Oversight Board Approving an Amendment to the Recognized Obligation Payment Schedule (ROPS) for the 18-19B Period

Recommended Action

Adopt a resolution approving an amendment to the ROPS 18-19B for the Successor Agency to the San Juan Capistrano Community Redevelopment Agency (Successor Agency) and authorize the Successor Agency to transmit the amended ROPS 18-19B to the County Administrative Officer, the County Auditor-Controller, the California Department of Finance (DOF), and the State Controller's Office, and post the amended ROPS 18-19B on the Successor Agency's web page on the City's website.

The San Juan Capistrano Successor Agency requests approval of the Amended Recognized Obligation Payment Schedule (ROPS) 18-19B for the second half of Fiscal Year 2018-19. The amendment is necessary to ensure that the Successor Agency complies with the covenants of the trust indenture for the 2008 Tax Allocation Bonds, Series A and Series B (collectively referred to as "the Bonds"), the covenants set forth in the Loan Agreement dated as of November 1, 2016, entered into by and between the Successor Agency and TPB Investments, Inc., a wholly owned subsidiary of Western Alliance Bank, an Arizona Corporation, as evidenced by that certain Successor Agency to the San Juan Capistrano Community Redevelopment Agency 2016 Subordinate Tax Allocation Refunding Note (the "2016 Loan"), and to ensure that other obligations of the Successor Agency are paid when due.

Compliance with Bond Covenants – Compliance with the covenants of the Bonds is complicated by the timing of the priority lien placed on the tax revenues of the Successor Agency by the trust indenture of the Bonds. The Bonds place a priority lien on the tax revenues of the Successor Agency and provide that tax revenues collected during any bond year (which begins on June 2 of each year) cannot be expended for any other obligation of the Successor Agency, until funds have been collected and deposited into the Special Fund stipulated in the indenture in amounts sufficient to address all principal and interest payments of the bond year. Only after those funds have been collected and so deposited can tax revenues be used to pay other obligations of the Successor Agency.

The Successor Agency receives tax revenues in two installments, on January 2, and on June 1. Normally the first receipt of tax revenues in a given bond year would occur on January 2. The amount of tax revenue available to be distributed to the Successor Agency on January 2 is significantly larger than the amount associated with the second installment (on June 1), and is sufficient to fully fund the Bond interest payment due on February 1 and the Bond principal and interest payment due on August 1, so that other obligations of the Successor Agency can be addressed on their respective due dates, as required.

In 2019, June 1 falls on a Saturday. Accordingly, the Successor Agency could receive its June remittance of tax revenue on Monday, June 3, 2019. That would make the June 3 Redevelopment Property Tax Trust Fund (RPTTF) distribution the first receipt of pledged tax revenues by the Successor Agency after the start of the bond year that begins on June 2, 2019. Under the original 2008 Indentures, the money received on June 3, 2019 would have then been needed to be deposited into the Special Fund. No other obligations of the Successor Agency could be paid until the amount held in the Special Fund became sufficient to pay both the August 1 principal and interest payment and the February 1 interest payment on the Bonds.

Unfortunately, the amount of tax revenue available to the Successor Agency in June is significantly less than the amount that is available in January and would not be sufficient to fully fund the annual debt service

of the bonds for the bond year, as well as pay all of the other enforceable obligation payments that are due in the ROPS 19-20A period, which covers the period from July 1, 2019 to December 31, 2019.

The Successor Agency previously obtained Oversight Board approval of amendments to the 2008 Indentures to change the "Bond Year" as defined under these Indentures to begin on August 2 of each year instead of June 2 of each year. The proposed amendments will enable the Successor Agency to request each bond year's debt service on the Bonds entirely from the RPTTF distributed on January 2 of each year, when there are sufficient funds available to fully fund the Bonds' debt service for the bond year in addition to paying all of the enforceable obligations that come due before the June distribution of RPTTF is received by the Successor Agency. The proposed amendments to the 2008 Indentures are currently under review by DOF.

Compliance with 2016 Loan Covenants – The Loan Agreement providing for the 2016 Loan requires the Successor Agency to request from each January RPTTF distribution and each June RPTTF distribution 100% of the following interest payment and 50% of the following principal payment, such that 50% of each annual debt service obligation on the 2016 Loan is received from each RPTTF distribution. The current Fiscal Year 2018-19 ROPS only requests RPTTF from the January distribution to pay the following interest payment, and must therefore be amended to request half of the following principal payment as well from the RPTTF to be distributed on January 2, 2019. As noted above, the Successor Agency anticipates that it will receive sufficient RPTTF on January 2, 2019 to make the deposits into the Special Fund for the Bonds and the deposits required by the 2016 Loan Agreement, as well as all other payments required for approved enforceable obligations during the January 2019 to June 2019 period.

Due to the circumstances described above and in order for the Successor Agency to continue to comply with its Bond covenants, it is necessary to amend the ROPS 18-19B to allow the required annual deposit into the Special Fund to take place in the ROPS 18-19B period and to request RPTTF for the 2016 Loan in compliance with the requirements set forth in the 2016 Loan Agreement. The amount to be deposited into the Special Fund in the ROPS 18-19B period is the amount of the Bonds' interest payment due on February 1, 2019, the amount of the Bonds' principal and interest payment that is due on August 1, 2019, and half of the annual debt service payment on the 2016 Loan.

Pending the Orange Countywide Oversight Board approval of the amended ROPS 18-19B, staff intends to submit the amended ROPS 18-19B to the California Department of Finance for consideration.

Impact on Taxing Entities

The effect of the proposed amendment is to decrease the distribution of tax increment to the taxing entities in the 18-19B period and to increase the tax increment distribution to the taxing entities in subsequent periods. The total amount of distributions to the taxing entities will not be changed by the proposed amendment. Only the timing of the distributions will change.

Attachments

Attachment 1 – Proposed Oversight Board Resolution – Amended ROPS 18-19B
Attachment 2 – Amended ROPS 18-19B
Attachment 3 – Successor Agency Resolution – Amended ROPS 18-19B

RESOLUTION NO. 18-___

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD WITH OVERSIGHT OF THE SUCCESSOR AGENCY TO THE SAN JUAN CAPISTRANO COMMUNITY REDEVELOPMENT AGENCY APPROVING AN AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE 18-19 FISCAL PERIOD OF JANUARY 1, 2019 TO JUNE 30, 2019, SUBJECT TO SUBMITTAL TO, AND REVIEW BY, THE STATE DEPARTMENT OF FINANCE UNDER CALIFORNIA HEALTH AND SAFETY CODE, DIVISION 24, PART 1.85, AND AUTHORIZING THE POSTING AND TRANSMITTAL THEREOF

WHEREAS, the former San Juan Capistrano Community Redevelopment Agency ("Former Agency") previously was a public body, corporate and politic formed, organized, existing and exercising its powers under the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq*., and was formed by ordinance of the City Council of the City of San Juan Capistrano ("City"); and

WHEREAS, Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and wind down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 and by other subsequent legislation ("Dissolution Law"); and

WHEREAS, unless otherwise stated in this resolution, statutory references are to the California Health and Safety Code; and

WHEREAS, as of February 1, 2012, the Former Agency was dissolved under the Dissolution Law, and as a separate public entity, corporate and politic under Section 34171(g), the Successor Agency to the San Juan Capistrano Community Redevelopment Agency (the "Successor Agency") administers the enforceable obligations of the Former Agency and otherwise unwinds the Former Agency's affairs; and

WHEREAS, prior to July 1, 2018 under the Dissolution Law, in particular Sections 34179 and 34180, certain actions of the Successor Agency were subject to the review and approval by a local seven-member oversight board, which oversaw and administered the Successor Agency's activities during the period from dissolution until June 30, 2018; and

WHEREAS, as of, on and after July 1, 2018 under the Dissolution Law, in particular Section 34179(j), in every California county there shall be only one oversight board that is staffed by the county auditor-controller, with certain exceptions that do not apply in the County of Orange; and

WHEREAS, as of, on and after July 1, 2018 the County of Orange through the Orange County Auditor-Controller established the single Orange Countywide Oversight Board in compliance with Section 34179(j), which serves as the oversight board to the 25 successor agencies existing and operating in Orange County, including the Successor Agency; and

WHEREAS, every oversight board, both the prior local oversight board and this newly established Orange Countywide Oversight Board, has fiduciary responsibilities to the holders of enforceable obligations and to the taxing entities that benefit from distributions of property tax and other revenues under the Dissolution Law, in particular Section 34188; and

WHEREAS, Sections 34177(o) and 34179 provide that each Recognized Obligation Payment Schedule ("ROPS") is submitted by the Successor Agency to the Oversight Board and then reviewed and approved by the Oversight Board before final review and approval by the California Department of Finance ("DOF"); and

WHEREAS, Section 34177(o)(1)(E) authorizes that "[o]nce per period, and no later than October 1, a successor agency may submit one amendment to the [ROPS] approved by the department pursuant to this subdivision, if the oversight board makes a finding that a revision is necessary for the payment of approved enforceable obligations during the second one-half of the [ROPS] period, which shall be defined as January 1 to June 30, inclusive. A successor agency may only amend the amount requested for payment of approved enforceable obligations. The revised [ROPS] shall be approved by the oversight board and submitted to the department by electronic means in a manner of the department's choosing. The department shall notify the successor agency and the county auditor-controller as to the outcome of the department's review at least 15 days before the date of the property tax distribution"; and

WHEREAS, the Former Agency previously issued its San Juan Capistrano Community Redevelopment Agency San Juan Capistrano Central Redevelopment Project Series 2008 Tax Allocation Series A Bonds and Subordinate Taxable Series B Bonds (Housing) (collectively, the "2008 Bonds"); and

WHEREAS, the 2008 Bonds are included on the Successor Agency's ROPS for fiscal year 2018-19 as line items 3 and 4; and

WHEREAS, the Successor Agency has been made aware that the Indentures (collectively, the "Indentures") providing for the issuance of the 2008 Bonds require the full bond year's debt service on the 2008 Bonds to be paid using the first tax increment revenues (now Redevelopment Property Tax Trust Fund, or "RPTTF," moneys) received by the Successor Agency in each bond year; and

WHEREAS, the Indentures define "Bond Year" as June 2 through June 1 in each year; and

WHEREAS, because RPTTF is sometimes received by the Successor Agency on June 2 or later, which makes compliance with the Indentures complicated and difficult to manage under the Dissolution Act, the Successor Agency has prepared and obtained local oversight board approval of an amendment to each of the Indentures (collectively, the "2008 Indenture Amendments") to define "Bond Year" under the Indentures as August 2 through August 1 in each year; the 2008 Indenture Amendments are currently under review by DOF; and

WHEREAS, because the Successor Agency receives less RPTTF in the June distribution than in the January distribution and because the June RPTTF distribution is frequently less than estimated, leaving the Successor Agency with insufficient RPTTF to pay its enforceable obligations during the July through December ROPS period, the Successor Agency is requesting

the full amount of debt service on the 2008 Bonds due on February 1, 2019 and August 1, 2019 from the RPTTF to be distributed to the Successor Agency on January 2, 2019; and

WHEREAS, the increased amount requested for debt service on the 2008 Bonds (line items 3 and 4) pursuant to the attached ROPS amendment will comply with the Indentures, as amended by the 2008 Indenture Amendments, if approved by DOF; however, even in the absence of the 2008 Indenture Amendments, the request for additional RPTTF for line items 3 and 4 to pay the full year's debt service on the 2008 Bonds is authorized by the Dissolution Act, specifically Section 34171(d)(1)(A), which provides that "[a] reserve may be held when required by the bond indenture or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half of the calendar year"; and

WHEREAS, the Successor Agency has further been made aware that the Loan Agreement dated as of November 1, 2016, entered into by and between the Successor Agency and TPB Investments, Inc., a wholly owned subsidiary of Western Alliance Bank, an Arizona Corporation, as evidenced by that certain Successor Agency to the San Juan Capistrano Community Redevelopment Agency 2016 Subordinate Tax Allocation Refunding Note (the "2016 Loan") requires the Successor Agency to request from each January RPTTF distribution and each June RPTTF distribution 100% of the following interest payment and 50% of the following principal payment, such that 50% of each annual debt service obligation on the 2016 Loan is received from each RPTTF distribution; and

WHEREAS, the 2016 Loan is included on the Successor Agency's ROPS for fiscal year 2018-19 as line item 51; and

WHEREAS, the Successor Agency has submitted to the Orange Countywide Oversight Board an amendment to ROPS 18-19 reflecting additional payments from RPTTF for each of the 2008 Bonds and the 2016 Loan, line items 3, 4 and 51, respectively; and

WHEREAS, the objective of this Orange Countywide Oversight Board resolution is to authorize, make findings, and approve the Successor Agency's amendment of ROPS 18-19 to correct and increase line items 3, 4 and 51 as reflected on the amendment to the Successor Agency's ROPS 18-19 attached as Attachment No. 1 to this resolution and fully incorporated herein by this reference; and

WHEREAS, the Orange Countywide Oversight Board has reviewed the Successor Agency's amendment of ROPS 18-19, and desires to make certain findings, including: (i) amendment is necessary to pay a DOF-approved enforceable obligation on ROPS 18-19 during the "B" fiscal period, (ii) ROPS 18-19, as amended, is approved, (iii) the Successor Agency or City staff are authorized to post ROPS 18-19, as amended, on the City's website, and (iv) staff is directed to transmit ROPS 18-19, as amended, to the DOF, with copies to the County of Orange Administrative Officer, the County of Orange Auditor-Controller, and the State Controller's Office pursuant to the Dissolution Law;

NOW, THEREFORE, THE ORANGE COUNTYWIDE OVERSIGHT BOARD DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

Section 2. The Orange Countywide Oversight Board hereby finds the revision set forth in amended ROPS 18-19 for funds to be distributed from the Redevelopment Property Tax Trust Fund (RPTTF) for the fiscal period January 1, 2019 to June 30, 2019 is necessary to pay DOF-approved enforceable obligations for such ROPS 18-19 period; in particular, the amendment is to correct and increase the RPTTF authorized for disbursement to the Successor Agency and payment by the Successor Agency for line items 3, 4 and 51.

Section 3. Under the Dissolution Law, the Orange Countywide Oversight Board approves the ROPS 18-19, as amended, (Attachment No. 1); provided however, that the ROPS 18-19, as amended, is approved subject to the condition that such ROPS, as amended, is to be submitted to and reviewed by the DOF. Further, the City's Chief Financial Officer and his authorized designees, in consultation with legal counsel, shall be authorized to discuss this matter with the DOF and make augmentations, modifications, additions or revisions to the ROPS 18-19 as may be necessary or directed by DOF.

Section 4. Orange Countywide Oversight Board authorizes transmittal of ROPS 18-19, as amended, to the DOF with copies to the Orange County Executive Officer, Orange County Auditor-Controller, and State Controller's Office.

Section 5. The City's Chief Financial Officer and his authorized designees are directed to post this Resolution, including the ROPS 18-19, as amended, on the City's website pursuant to the Dissolution Law.

Section 6. Under Section 34179(h) written notice and information about certain actions taken by the Orange Countywide Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing. The Orange Countywide Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.

Section 7. The Clerk of the Orange Countywide Oversight Board shall certify to the adoption of this Resolution.

Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - Summary

Filed for the January 1, 2019 through June 30, 2019 Period

Successor Agency: **San Juan Capistrano**

County: Orange

	Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	ROPS 18-19B Authorized Amounts	ROPS 18-19B Requested Adjustments	ROPS 18-19B Amended Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ 35,000**	**$ -**	**$ 35,000**
B	Bond Proceeds	-	-	-
C	Reserve Balance	-	-	-
D	Other Funds	35,000	-	35,000
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 1,485,600**	**$ 1,193,015**	**$ 2,678,615**
F	RPTTF	1,360,600	1,193,015	2,553,615
G	Administrative RPTTF	125,000	-	125,000
H	**Current Period Enforceable Obligations (A+E):**	**$ 1,520,600**	**$ 1,193,015**	**$ 2,713,615**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/

Signature Date

ATTACHMENT 2 - Page 1

San Juan Capistrano Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - ROPS Detail

January 1, 2019 through June 30, 2019

(Report Amounts in Whole Dollars)

				AUTHORIZED AMOUNTS						REQUESTED ADJUSTMENTS						
				Fund Sources						Fund Sources						
Item #	Project Name/Debt Obligation	Obligation Type	Total Outstanding Balance	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Notes
			$ 49,048,378	$ -	$ -	$ 35,000	$ 1,360,600	$ 125,000	$ 1,520,600	$ -	$ -	$ -	$ 1,193,015	$ -	$ 1,193,015	
3	2008 Tax Allocation Bonds, Series A	Bonds Issued On or Before	$ 10,141,997	-	-	-	151,416		$ 151,416				491,416		$ 491,416	Required by covenants to allow other oblig pmts
4	2008 Tax Allocation Bonds, Series B (Taxable)	Bonds Issued On or Before 12/31/10	$ 14,846,567	-	-	-	281,098		$ 281,098				666,098		$ 666,098	Funding required by bond covenants to allow payment of other obligations
5	Tax Allocation Bond Reserve Set-Aside (See Notes)	Reserves	$ 772,513	-	-	-	294,423		$ 294,423				(294,423)		$ (294,423)	Not needed due to amended funding of lines 3 & 4
6	OPA-Fluidmaster	OPA/DDA/Construction	$ 74,760	-	-	-	-		$ -						$ -	
7	OPA-Capistrano Volkswagen	OPA/DDA/Construction	$ 76,783	-	-	35,000	-		$ 35,000						$ -	
8	OPA-Sierra Vista	OPA/DDA/Construction	$ 16,402	-	-	-	-		$ -						$ -	
9	Agreement-TCAG Ford	OPA/DDA/Construction	$ 1,051,617	-	-	-	104,500		$ 104,500						$ -	
10	Agreement-OC Chrysler	OPA/DDA/Construction	$ 530,981	-	-	-	46,458		$ 46,458						$ -	
12	Kinoshita Acquisition - Note Extension (interest payments through March 1, 2021)	Third-Party Loans	$ 3,681,462	-	-	-	117,494		$ 117,494						$ -	
13	Kinoshita Acquisition - Note Extension (interest payments through March 1, 2021)	Third-Party Loans	$ 3,835,433	-	-	-	122,407		$ 122,407						$ -	
14	Kinoshita Note Principal Payment Set-aside	Third-Party Loans	$ 7,996,697						$ -						$ -	
16	Tax Anticipation Agreement (City/Agency Loan #1-See Notes)	City/County Loan (Prior 06/28/11), Cash exchange	$ 899,014	-	-	-	150,000		$ 150,000						$ -	
17	Trulis Acquisition - Loan Agreement (City/Agency Loan #2 - See Notes)	City/County Loan (Prior 06/28/11), Cash exchange	$ 207,535	-	-	-	50,000		$ 50,000						$ -	
18	Administration Loan Agreement (City/Agency Loan #3 See Notes)	City/County Loan (Prior 06/28/11), Cash exchange	$ 1,684,800						$ -						$ -	
28	Administrative Cost Allowance	Admin Costs	$ 250,000	-	-	-	-		$ -						$ -	
32	Legal Costs associated with assets, obligations and property.	Litigation	$ -						$ -						$ -	
51	Lower Rosan Ranch - 2016 Subordinated Tax Allocation Note (See Notes)	Refunding Bonds Issued After 6/27/12	$ 2,981,817	-	-	-	42,804		$ 42,804				329,924		$ 329,924	Note covenants require 50% of annual debt service be collected each ROPS period
52	Costs associated with selling properties (appraisals, surveys, etc.)	Property Dispositions	$ -						$ -						$ -	
			$ -						$ -						$ -	
			$ -						$ -						$ -	
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 CERTIFIED COPY

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE SAN JUAN CAPISTRANO COMMUNITY REDEVELOPMENT AGENCY APPROVING AN AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JANUARY 1, 2019, TO JUNE 30, 2019, AND AUTHORIZING THE POSTING AND TRANSMITTAL THEREOF

WHEREAS, the former San Juan Capistrano Community Redevelopment Agency ("Former Agency") previously was a public body, corporate and politic formed, organized, existing and exercising its powers under the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq.*, and was formed by ordinance of the City Council of the City of San Juan Capistrano ("City"); and,

WHEREAS, Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and wind down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 and by other subsequent legislation ("Dissolution Law"); and,

WHEREAS, unless otherwise stated in this resolution, statutory references are to the California Health and Safety Code; and,

WHEREAS, as of February 1, 2012, the Former Agency was dissolved under the Dissolution Law, and as a separate public entity, corporate and politic under Section 34171(g), the Successor Agency to the San Juan Capistrano Community Redevelopment Agency (the "Successor Agency") administers the enforceable obligations of the Former Agency and otherwise unwinds the Former Agency's affairs; and,

WHEREAS, Sections 34177(o) and 34179 provide that each Recognized Obligation Payment Schedule ("ROPS") is submitted by the Successor Agency to the Oversight Board and then reviewed and approved by the Oversight Board before final review and approval by the California Department of Finance ("DOF"); and,

WHEREAS, Section 34177(o)(1)(E) authorizes that "[o]nce per period, and no later than October 1, a successor agency may submit one amendment to the [ROPS] approved by the department pursuant to this subdivision, if the oversight board makes a finding that a revision is necessary for the payment of approved enforceable obligations during the second one-half of the [ROPS] period, which shall be defined as January 1 to June 30, inclusive. A successor agency may only amend the amount requested for payment of approved enforceable obligations. The revised [ROPS] shall be approved by the oversight board and submitted to the department by electronic means in a manner of the department's choosing. The department shall notify the successor agency and the county auditor-controller as to the outcome of the department's review at least 15 days before the date of the property tax distribution"; and,

WHEREAS, the Former Agency previously issued its San Juan Capistrano Community Redevelopment Agency San Juan Capistrano Central Redevelopment

Project Series 2008 Tax Allocation Series A Bonds and Subordinate Taxable Series B Bonds (Housing) (collectively, the "2008 Bonds"); and,

WHEREAS, the 2008 Bonds are included on the Successor Agency's ROPS for fiscal year 2018-19 as line items 3 and 4; and,

WHEREAS, the Indentures (collectively, the "Indentures") providing for the issuance of the 2008 Bonds require the full bond year's debt service on the 2008 Bonds to be paid using the first tax increment revenues (now Redevelopment Property Tax Trust Fund, or "RPTTF," moneys) received by the Successor Agency in each bond year; and,

WHEREAS, the Indentures define "Bond Year" as June 2 through June 1 in each year; and,

WHEREAS, because RPTTF is sometimes received by the Successor Agency on June 2 or later, which makes compliance with the Indentures complicated and difficult to manage under the Dissolution Act, the Successor Agency has prepared and obtained local oversight board approval of an amendment to each of the Indentures (collectively, the "2008 Indenture Amendments") to define "Bond Year" under the Indentures as August 2 through August 1 in each year; the 2008 Indenture Amendments are currently under review by DOF; and,

WHEREAS, because the Successor Agency receives less RPTTF in the June distribution than in the January distribution and because the June RPTTF distribution is frequently less than estimated, leaving the Successor Agency with insufficient RPTTF to pay its enforceable obligations during the July through December ROPS period, the Successor Agency is requesting the full amount of debt service on the 2008 Bonds due on February 1, 2019 and August 1, 2019 from the RPTTF to be distributed to the Successor Agency on January 2, 2019; and,

WHEREAS, the increased amount requested for debt service on the 2008 Bonds (line items 3 and 4) pursuant to the attached ROPS amendment will comply with the Indentures, as amended by the 2008 Indenture Amendments, if approved by DOF; however, even in the absence of the 2008 Indenture Amendments, the request for additional RPTTF for line items 3 and 4 to pay the full year's debt service on the 2008 Bonds is authorized by the Dissolution Act, specifically Section 34171(d)(1)(A), which provides that "[a] reserve may be held when required by the bond indenture or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half of the calendar year"; and,

WHEREAS, the Loan Agreement dated as of November 1, 2016, entered into by and between the Successor Agency and TPB Investments, Inc., a wholly owned subsidiary of Western Alliance Bank, an Arizona Corporation, as evidenced by that certain Successor Agency to the San Juan Capistrano Community Redevelopment Agency 2016 Subordinate Tax Allocation Refunding Note (the "2016 Loan") requires the Successor Agency to request from each January RPTTF distribution and each June RPTTF distribution 100% of the following interest payment and 50% of the following principal

payment, such that 50% of each annual debt service obligation on the 2016 Loan is received from each RPTTF distribution; and,

WHEREAS, the 2016 Loan is included on the Successor Agency's ROPS for fiscal year 2018-19 as line item 51; and,

WHEREAS, the Successor Agency desires to amend ROPS 18-19 to reflect additional payments from RPTTF for each of the 2008 Bonds and the 2016 Loan, line items 3, 4 and 51, respectively, as reflected on the amendment to the Successor Agency's ROPS 18-19 attached as Exhibit A to this resolution and fully incorporated herein by this reference; and,

WHEREAS, upon approval of this Resolution by the Successor Agency, the amendment to ROPS 18-19 shall be submitted to the Orange Countywide Oversight Board and DOF for authorization and approval; and,

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE SAN JUAN CAPISTRANO COMMUNITY REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

Section 2. The Successor Agency hereby finds the revision set forth in amended ROPS 18-19 for funds to be distributed from the Redevelopment Property Tax Trust Fund (RPTTF) for the fiscal period of January 1, 2019, to June 30, 2019, is necessary to pay DOF-approved enforceable obligations for such ROPS 18-19 period; in particular, the amendment is to correct and increase the RPTTF authorized for disbursement to the Successor Agency and payment by the Successor Agency for line items 3, 4 and 51.

Section 3. The Successor Agency hereby approves ROPS 18-19, as amended, subject to the condition that such ROPS, as amended, is to be submitted to and reviewed by the Orange Countywide Oversight Board and DOF. Further, the City's Chief Financial Officer and his authorized designees, in consultation with legal counsel, shall be authorized to discuss this matter with the DOF and make augmentations, modifications, additions or revisions to the ROPS 18-19 as may be necessary or directed by DOF.

Section 4. The Successor Agency authorizes transmittal of ROPS 18-19, as amended, to the Orange Countywide Oversight Board and DOF, with copies to the County of Orange Administrative Officer, the County of Orange Auditor-Controller, and the State Controller's Office pursuant to the Dissolution Law.

Section 5. The Secretary of the Successor Agency shall certify to the adoption of this Resolution.

IN WITNESS WHEREOF, this Resolution is adopted and approved the 4th day of September 2018.

DEREK REEVE, CHAIR

ATTEST:

MARIA MORRIS, AGENCY SECRETARY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN JUAN CAPISTRANO)

I, Maria Morris, Secretary of the Successor Agency to the San Juan Capistrano Community Redevelopment Agency, hereby certify that the foregoing SACRA Resolution No. 18-09-04-01 was duly adopted by the Successor Agency at its regular meeting held on the 4th day of September 2018, and that it was so adopted by the following vote:

AYES: BOARD MEMBERS: Farias, Maryott, Patterson, Ferguson and Chair Reeve
NOES: BOARD MEMBERS: None
ABSENT: BOARD MEMBERS: None

MARIA MORRIS, AGENCY SECRETARY

Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - Summary

Filed for the January 1, 2019 through June 30, 2019 Period

Successor Agency: San Juan Capistrano

County: Orange

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)		ROPS 18-19B Authorized Amounts	ROPS 18-19B Requested Adjustments	ROPS 18-19B Amended Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ 35,000**	**$ -**	**$ 35,000**
B	Bond Proceeds	-	-	-
C	Reserve Balance	-	-	-
D	Other Funds	35,000	-	35,000
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 1,485,600**	**$ 1,193,015**	**$ 2,678,615**
F	RPTTF	1,360,600	1,193,015	2,553,615
G	Administrative RPTTF	125,000	-	125,000
H	**Current Period Enforceable Obligations (A+E):**	**$ 1,520,600**	**$ 1,193,015**	**$ 2,713,615**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

_____
Name Title

/s/ _____
Signature Date

San Juan Capistrano Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - ROPS Detail

January 1, 2019 through June 30, 2019

(Report Amounts in Whole Dollars)

Item #	Project Name/Debt Obligation	Obligation Type	Total Outstanding Balance	AUTHORIZED AMOUNTS Fund Sources: Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	REQUESTED ADJUSTMENTS Fund Sources: Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Notes
			$ 49,048,378	$ -	$ -	$ 35,000	$ 1,360,600	$ 125,000	$ 1,520,600	$ -	$ -	$ -	$ 1,193,015	$ -	$ 1,193,015	
3	2008 Tax Allocation Bonds, Series A	Bonds Issued On or Before	$ 10,141,997	-	-	-	151,416		$ 151,416				491,416		$ 491,416	Required by covenants to allow other oblig pmts
4	2008 Tax Allocation Bonds, Series B (Taxable)	Bonds Issued On or Before 12/31/10	$ 14,846,567	-	-	-	281,098		$ 281,098				666,098		$ 666,098	Funding required by bond covenants to allow payment of other obligations
5	Tax Allocation Bond Reserve Set-Aside (See Notes)	Reserves	$ 772,513	-	-	-	294,423		$ 294,423				(294,423)		$ (294,423)	Not needed due to amended funding of lines 3 & 4
6	OPA-Fluidmaster	OPA/DDA/Construction	$ 74,760	-	-	-	-		$ -						$ -	
7	OPA-Capistrano Volkswagen	OPA/DDA/Construction	$ 76,783	-	-	35,000	-		$ 35,000						$ -	
8	OPA-Sierra Vista	OPA/DDA/Construction	$ 16,402	-	-	-	-		$ -						$ -	
9	Agreement-TCAG Ford	OPA/DDA/Construction	$ 1,051,617	-	-	-	104,500		$ 104,500						$ -	
10	Agreement-OC Chrysler	OPA/DDA/Construction	$ 530,981	-	-	-	46,458		$ 46,458						$ -	
12	Kinoshita Acquisition - Note Extension (interest payments through March 1, 2021)	Third-Party Loans	$ 3,681,462	-	-	-	117,494		$ 117,494						$ -	
13	Kinoshita Acquisition - Note Extension (interest payments through March 1, 2021)	Third-Party Loans	$ 3,835,433	-	-	-	122,407		$ 122,407						$ -	
14	Kinoshita Note Principal Payment Set-aside	Third-Party Loans	$ 7,996,697						$ -						$ -	
16	Tax Anticipation Agreement (City/Agency Loan #1- See Notes)	City/County Loan (Prior 06/28/11), Cash exchange	$ 899,014	-	-	-	150,000		$ 150,000						$ -	
17	Trulis Acquisition - Loan Agreement (City/Agency Loan #2 - See Notes)	City/County Loan (Prior 06/28/11), Cash exchange	$ 207,535	-	-	-	50,000		$ 50,000						$ -	
18	Administration Loan Agreement (City/Agency Loan #3 See Notes)	City/County Loan (Prior 06/28/11), Cash exchange	$ 1,684,800						$ -						$ -	
28	Administrative Cost Allowance	Admin Costs	$ 250,000	-	-	-	-		$ -						$ -	
32	Legal Costs associated with assets, obligations and property	Litigation	$ -						$ -						$ -	
51	Lower Rosan Ranch - 2016 Subordinated Tax Allocation Note (See Notes)	Refunding Bonds Issued After 6/27/12	$ 2,981,817	-	-	-	42,804		$ 42,804				329,924		$ 329,924	Note covenants require 50% of annual debt service be collected each ROPS period
52	Costs associated with selling properties (appraisals, surveys, etc.)	Property Dispositions	$ -						$ -						$ -	
			$ -						$ -						$ -	
			$ -						$ -						$ -	
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he foregoing instrument is a correct copy of the original on file in
his office. Attest: Sept 6, 2018
City Clerk of the City of San Juan Capistrano, County of Orange
State of California
By:

Orange Countywide Oversight Board

Date: 9/18/2018 Agenda Item No. 9E

From: Successor Agency to the Santa Ana Redevelopment Agency

Subject**:** Resolution of the Countywide Oversight Board Approving Amendment to the Recognized Obligation Payment Schedule (ROPS)

Recommended Action:
Approve resolution approving amendment to FY 2018/19 ROPS for the Santa Ana Successor Agency

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The Santa Ana Successor Agency requests approval of the Amended Recognized Obligation Payment Schedule (ROPS) 18-19B for the second half of Fiscal Year 2018-19. The annual ROPS for the July 1, 2018 – June 30, 2019 period (18-19) was submitted to the California State Department of Finance ("DOF") by the statutory deadline of February 1, 2018, with the required approval of the local Oversight Board. DOF issued its final determination letter regarding ROPS 18-19 on May 17, 2018 and the County Auditor-Controller distributed funds for the "A" period (July 1, 2018 – December 31, 2018) from the Redevelopment Property Tax Trust Fund ("RPTTF") on May 29, 2018.

During the preparation and submission of the ROPS 18-19, it was anticipated that an outstanding obligation pursuant to a disposition and development agreement with an affordable housing developer would be completed by the end of the 17-18 period (June 30, 2018). Therefore, line item 70 of the ROPS regarding this obligation was "retired" for the ROPS 18-19 period. Due to various delays, the outstanding obligation was not completed nor paid by the June 30th date and the obligation remains unpaid.

The developer is expected to complete the final steps necessary to qualify for the total $250,000 fee during the "A" period of the ROPS. This fee is the $50,000 developer fee per affordable unit for the last five units of the development project. DOF has issued an amended ROPS 18-19B template for successor agencies if amendments are necessary for payment of approved enforceable obligations during the second half of the ROPS period, pursuant to Health and Safety Code section 34177 (o)(1)(E). DOF has reactivated line item 70 on the ROPS per staff's request and directed Successor Agency staff to amend it to enable the payment of the obligation during the "B" period (January 1, 2019 to June 30, 2019). The developer has agreed to receive payment during the month of January 2019 ("B" period).

The Santa Ana Successor Agency adopted a resolution approving the Amended ROPS 18-19B at its meeting on September 4, 2018 (Attachment 2).

Impact on Taxing Entities

There is no fiscal impact on taxing entities as a result of this action. Funds were previously allocated to the Santa Ana Successor Agency for this obligation and the Amended ROPS proposes to expend the funds from the current Reserve Balance.

Attachments

1. Proposed Orange Countywide Oversight Board Resolution
    a. Exhibit A – Amended ROPS 18-19B
2. Successor Agency Resolution 2018-002
    a. Exhibit A – Amended ROPS 18-19B

RESOLUTION NO. 2018-___

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD WITH OVERSIGHT OF THE SUCCESSOR AGENCY TO THE SANTA ANA REDEVELOPMENT AGENCY APPROVING THE AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE 18-19B FOR THE PERIOD OF JANUARY 1, 2019 TO JUNE 30, 2019 PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(o)(1)(E), AND PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE ("DISSOLUTION ACT")

WHEREAS, on January 9, 2012, pursuant to section 34173 of the California Health & Safety Code, the City of Santa Ana ("City") elected to serve as the Successor Agency for the dissolved Community Redevelopment Agency ("Agency") of the City of Santa Ana and selected the Housing Authority of the City of Santa Ana to act as "Successor Housing Agency;" and

WHEREAS, the Santa Ana City Council serves as the governing body of the Successor Agency under the Dissolution Act, as amended by AB 1484, AB 471, and SB 107, to administer the enforceable obligations of the Agency and otherwise unwind the Agency's affairs; and

WHEREAS, SB 107 revised the timeline for the preparation of the required Recognized Obligation Payment Schedule (ROPS) from each six-month period to a one-year period beginning July 1, 2016; and

WHEREAS, the Successor Agency received and filed the ROPS for the 18-19 period, upon review and approval by the Oversight Board on January 29, 2018 and submitted it to the Department of Finance (DOF) and other required entities by the February 1, 2018 deadline. DOF issued its preliminary decision letter regarding ROPS 18-19 on April 13, 2018, and then subsequently issued its final determination letter on May 17, 2018 after a Meet and Confer session requested by Santa Ana; and

WHEREAS, Section 34177(o)(1)(E) authorizes that "[o]nce per period, and no later than October 1, a successor agency may submit one amendment to the [ROPS] approved by the department pursuant to this subdivision, if the oversight board makes a finding that a revision is necessary for the payment of approved enforceable obligations during the second one-half of the [ROPS] period, which shall be defined as January 1 to June 30, inclusive. A successor agency may only amend the amount requested for payment of approved enforceable obligations. The revised [ROPS] shall be approved by the oversight board and submitted to the department by electronic means in a manner of the department's choosing. The department shall notify the successor agency and the county auditor-controller as to the outcome of the department's review at least 15 days before the date of the property tax distribution;" and

WHEREAS, during the preparation and submission of the ROPS 18-19, it was anticipated that an outstanding obligation pursuant to a disposition and development agreement with an affordable housing developer would be completed by the end of the ROPS 17-18 period (June 30, 2018), and hence, line item 70 regarding this obligation was "retired" for the ROPS 18-19 period.

Due to various delays, the outstanding obligation was not completed nor paid by the June 30, 2018 date and the obligation remains unpaid.

A. DOF added line item 70 back into the Amended ROPS 18-19B template for Santa Ana to amend the ROPS for the January 1, 2019 through June 30, 2019 "B" fiscal period to enable the Successor Agency to fulfill its payment obligation in the amount of $250,000.

B. Successor Agency staff prepared the Amended ROPS 18-19B with modifications to the "B" fiscal period of January 1, 2019 to June 30, 2019 as to line item 70.

C. The Successor Agency adopted a resolution approving the Amended ROPS 18-19B on September 4, 2018.

NOW, THEREFORE, BE IT RESOLVED THAT THE ORANGE COUNTYWIDE OVERSIGHT BOARD does hereby resolve as follows:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

Section 2. The Orange Countywide Oversight Board approves the Amended Recognized Obligation Payment Schedule 18-19B, attached hereto as Exhibit A and incorporated herein by this reference, determines that the amendment is necessary to pay an enforceable obligation in the ROPS 18-19B period, and authorizes the submission to the County of Orange and Department of Finance for review and approval.

Section 3. Pursuant to the Dissolution Act, the Orange Countywide Oversight Board further authorizes the transmittal of the Amended ROPS 18-19B to DOF with copies to the County Executive Officer, the County Auditor-Controller, and the State Controller's Office.

Section 4. The City Manager of the City of Santa Ana, or his/her designee ("City Manager"), is directed to post on the City's website the Amended ROPS 18-19B in the manner required by law.

Section 5. The City Manager of the City of Santa Ana and/or the Executive Director of Community Development for the City of Santa Ana, or their respective designees, as delegated officials of the City acting as Successor Agency, are authorized to make or accept any augmentation, modification, additions, or revisions to the ROPS as may be necessary and appropriate in their reasonable discretion, based on review or communications from the State Department of Finance or County of Orange.

Section 6. This Resolution shall take effect immediately upon its adoption by the Orange Countywide Oversight Board, and the Clerk of the Board shall attest to and certify the vote adopting of this Resolution.

Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - Summary

Filed for the January 1, 2019 through June 30, 2019 Period

Successor Agency: **Santa Ana**

County: Orange

	Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	ROPS 18-19B Authorized Amounts	ROPS 18-19B Requested Adjustments	ROPS 18-19B Amended Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ 113,235**	**$ 250,000**	**$ 363,235**
B	Bond Proceeds	-	-	-
C	Reserve Balance	-	250,000	250,000
D	Other Funds	113,235	-	113,235
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 2,633,098**	**$ -**	**$ 2,633,098**
F	RPTTF	2,505,727	-	2,505,727
G	Administrative RPTTF	127,371	-	127,371
H	**Current Period Enforceable Obligations (A+E):**	**$ 2,746,333**	**$ 250,000**	**$ 2,996,333**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/

Signature Date

EXHIBIT A

Santa Ana Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - ROPS Detail

January 1, 2019 through June 30, 2019

(Report Amounts in Whole Dollars)

Item #	Project Name/Debt Obligation	Obligation Type	Total Outstanding Balance	AUTHORIZED AMOUNTS						REQUESTED ADJUSTMENTS						Notes
				Fund Sources						Fund Sources						
				Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	Total	
			$ 140,270,334	$ -	$ -	$ 113,235	$ 2,505,727	$ 127,371	$ 2,746,333	$ -	$ 250,000	$ -	$ -	$ -	$ 250,000	
1	2011 Tax Allocation Bonds Series A	Bonds Issued After 12/31/10	$ 92,269,738	-	-	-	2,056,175		$ 2,056,175						$ -	
2	2011 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 48,000	-	-	-	1,550		$ 1,550						$ -	
3	2011 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 28,000	-	-	-	-		$ -						$ -	
4	2011 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 28,600	-	-	-	2,600		$ 2,600						$ -	
5	2003 Tax Allocation Bonds Series A	Bonds Issued On or Before 12/31/10	$ 17,825,683	-	-	-	278,452		$ 278,452						$ -	
6	2003 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 40,500	-	-	-	725		$ 725						$ -	
7	2003 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 39,250	-	-	-	-		$ -						$ -	
8	2003 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 35,000	-	-	-	2,500		$ 2,500						$ -	
9	2003 Tax Allocation Bonds Series B	Bonds Issued On or Before 12/31/10	$ 5,783,625	-	-	-	70,500		$ 70,500						$ -	
10	2003 Tax Allocation Bonds Series B-Indenture of Trust	Fees	$ 4,500	-	-	-	725		$ 725						$ -	
11	2003 Tax Allocation Bonds Series B-Indenture of Trust	Fees	$ 3,000	-	-	-	-		$ -						$ -	
12	2003 Tax Allocation Bonds Series B-Indenture of Trust	Fees	$ 5,000	-	-	-	2,500		$ 2,500						$ -	
21	Housing Loan for ERAF FY 09-10	SERAF/ERAF	$ 532,601	-	-	-	-		$ -						$ -	
28	DDA - Sycamore Parking Concepts	OPA/DDA/Construction	$ 1,965,000	-	-	-	90,000		$ 90,000						$ -	
30	Erickson Lease Agreement - Honda	Business Incentive Agreements	$ 2,151,473	-	-	113,235	-		$ 113,235						$ -	
33	Off Site Improvements (Nexus)	Improvement/Infrastructure	$ 5,000,000	-	-	-	-		$ -						$ -	
34	Project Costs for Item #33	Project Management Costs	$ 123,250	-	-	-	-		$ -						$ -	
35	SA Venture Partnership & Other MainPlace Agreements	OPA/DDA/Construction	$ 1,600,000	-	-	-	-		$ -						$ -	
36	Project Costs for Item #35	Project Management Costs	$ 100,000	-	-	-	-		$ -						$ -	
37	DDA - Discovery Science Center	OPA/DDA/Construction	$ 199,000	-	-	-	-		$ -						$ -	
43	Downtown Parking Structure Improvements	Improvement/Infrastructure	$ 5,831,789	-	-	-	-		$ -						$ -	
50	Agmt for Financial Consulting Services	Professional Services	$ 100,000	-	-	-	-		$ -						$ -	
62	Audited Financial Statements / Due Diligence Reviews	Professional Services	$ 375,000	-	-	-	-		$ -						$ -	
63	Employee Pension Liability	Unfunded Liabilities	$ 736,732	-	-	-	-		$ -						$ -	
64	Other Postemployment Benefits (OPEB)	Unfunded Liabilities	$ 321,236						$ -						$ -	
65	Actuarial Study	Unfunded Liabilities	$ 70,000	-	-	-	-		$ -						$ -	
66	Successor Agency Admin.	Admin Costs	$ 4,225,328	-	-	-	-		$ -						$ -	
70	DDA - Habitat for Humanity	OPA/DDA/Construction	$ -	-	-	-	-		$ -		250,000				$ 250,000	Developer fee for final 5 units
71	Project Costs for Item #70	Project Management Costs	$ -	-	-	-	-		$ -						$ -	
119	Employee Layoff/Termination Payment Obligations	Unfunded Liabilities	$ 228,029						$ -						$ -	
129	Housing Entity Administrative Cost Allowance	Housing Entity Admin Cost	$ 600,000						$ -						$ -	
			$ -						$ -						$ -	

EXHIBIT A

SUCCESSOR AGENCY RESOLUTION NO. 2018-002

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SANTA ANA APPROVING AN AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE 18-19B FOR THE PERIOD OF JANUARY 1, 2019 TO JUNE 30, 2019 PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(o)(1)(E), AND PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE ("DISSOLUTION ACT")

BE IT RESOLVED BY THE MEMBERS OF THE SUCCESSOR AGENCY OF THE CITY OF SANTA ANA, AS FOLLOWS:

Section 1. The City Council of Santa Ana, acting as Successor Agency, conclusively finds, determines and declares as follows:

A. On January 9, 2012, pursuant to section 34173 of the California Health & Safety Code, the City of Santa Ana ("City") elected to serve as the Successor Agency for the dissolved Community Redevelopment Agency ("Agency") of the City of Santa Ana and selected the Housing Authority of the City of Santa Ana to act as "Successor Housing Agency."

B. The City Council serves as the governing body of the Successor Agency under the Dissolution Act, as amended by AB 1484, AB 471, and SB 107, to administer the enforceable obligations of the Agency and otherwise unwind the Agency's affairs.

C. SB 107 revised the timeline for the preparation of the required Recognized Obligation Payment Schedule (ROPS) from each six-month period to a one-year period beginning July 1, 2016.

D. The Successor Agency received and filed the ROPS for the 18-19 period, upon review and approval by the Oversight Board on January 29, 2018 and submitted it to the Department of Finance (DOF) and other required entities by the February 1, 2018 deadline. DOF issued its preliminary decision letter regarding ROPS 18-19 on April 13, 2018, and then subsequently issued its final determination letter on May 17, 2018 after a Meet and Confer session requested by Santa Ana.

E. Section 34177(o)(1)(E) authorizes that "[o]nce per period, and no later than October 1, a successor agency may submit one amendment to the [ROPS] approved by the department pursuant to this subdivision, if the oversight board makes a finding that a revision is necessary for the payment of approved enforceable obligations during the second one-half of the [ROPS] period, which shall be defined as January 1 to June 30, inclusive. A successor agency may

only amend the amount requested for payment of approved enforceable obligations. The revised [ROPS] shall be approved by the oversight board and submitted to the department by electronic means in a manner of the department's choosing. The department shall notify the successor agency and the county auditor-controller as to the outcome of the department's review at least 15 days before the date of the property tax distribution."

F. During the preparation and submission of the ROPS 18-19, it was anticipated that an outstanding obligation pursuant to a disposition and development agreement with an affordable housing developer would be completed by the end of the ROPS 17-18 period (June 30, 2018), and hence, line item 70 regarding this obligation was "retired" for the ROPS 18-19 period. Due to various delays, the outstanding obligation was not completed nor paid by the June 30, 2018 date and the obligation remains unpaid.

G. DOF added line item 70 back into the Amended ROPS 18-19B template for Santa Ana to amend the ROPS for the January 1, 2019 through June 30, 2019 "B" fiscal period to enable the Successor Agency to fulfill its payment obligation in the amount of $250,000.

H. Successor Agency staff has prepared the Amended ROPS 18-19B with modifications to the "B" fiscal period of January 1, 2019 to June 30, 2019 as to line item 70.

Section 2. The Successor Agency approves the Amended Recognized Obligation Payment Schedule 18-19B, attached hereto as Exhibit A and incorporated herein by this reference, determines that the amendment is necessary to pay an enforceable obligation in the ROPS 18-19B period, and authorizes the submission to the County of Orange and Orange Countywide Oversight Board for review and approval.

Section 3. Pursuant to the Dissolution Act, the Successor Agency further authorizes the transmittal of the Amended ROPS 18-19B, upon subsequent Orange Countywide Oversight Board approval, to DOF with copies to the County Administrative Officer, the County Auditor-Controller, and the State Controller's Office.

Section 4. The City Manager, or his/her designee ("City Manager"), is directed to post on the City's website the Amended ROPS 18-19B in the manner required by law.

Section 5. The City Manager and/or the Executive Director of Community Development, or their respective designees, as delegated officials of the City acting as Successor Agency, are authorized to make or accept any augmentation, modification, additions, or revisions to the ROPS as may be necessary and appropriate in their reasonable discretion, based on review or communications from the Orange Countywide Oversight Board, the State Department of Finance or County of Orange.

Section 6. This Resolution shall take effect immediately upon its adoption by the Successor Agency, and the Clerk of the Council shall attest to and certify the vote

adopting of this Resolution.

ADOPTED this 4th day of September, 2018

Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
Ryan O. Hodge
Assistant City Attorney

AYES:	Councilmembers	Benavides, Martinez, Pulido, Solorio, Tinajero Villegas (6)
NOES:	Councilmembers	None (0)
ABSTAIN:	Councilmembers	None (0)
NOT PRESENT:	Councilmembers	Sarmiento (1)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2018-002 to be the original resolution adopted by the City Council acting as the Successor Agency on September 4th, 2018

Date: 9/6/2018

Maria D. Huizar
Clerk of the Council
City of Santa Ana

Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - Summary

Filed for the January 1, 2019 through June 30, 2019 Period

Successor Agency: Santa Ana

County: Orange

	Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	ROPS 18-19B Authorized Amounts	ROPS 18-19B Requested Adjustments	ROPS 18-19B Amended Total
A	**Enforceable Obligations Funded as Follows (B+C+D):**	**$ 113,235**	**$ 250,000**	**$ 363,235**
B	Bond Proceeds	-	-	-
C	Reserve Balance	-	250,000	250,000
D	Other Funds	113,235	-	113,235
E	**Redevelopment Property Tax Trust Fund (RPTTF) (F+G):**	**$ 2,633,098**	**$ -**	**$ 2,633,098**
F	RPTTF	2,505,727	-	2,505,727
G	Administrative RPTTF	127,371	-	127,371
H	**Current Period Enforceable Obligations (A+E):**	**$ 2,746,333**	**$ 250,000**	**$ 2,996,333**

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/

Signature Date

EXHIBIT A

Santa Ana Amended Recognized Obligation Payment Schedule (ROPS 18-19B) - ROPS Detail

January 1, 2019 through June 30, 2019

(Report Amounts in Whole Dollars)

Item #	Project Name/Debt Obligation	Obligation Type	Total Outstanding Balance	AUTHORIZED AMOUNTS Fund Sources					Total	REQUESTED ADJUSTMENTS Fund Sources					Total	Notes
				Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		
			$ 140,270,334	$ -	$ -	$ 113,235	$ 2,505,727	$ 127,371	$ 2,746,333	$ -	$ 250,000	$ -	$ -	$ -	$ 250,000	
1	2011 Tax Allocation Bonds Series A	Bonds Issued After 12/31/10	$ 92,269,738	-	-	-	2,056,175		$ 2,056,175						$ -	
2	2011 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 48,000	-	-	-	1,550		$ 1,550						$ -	
3	2011 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 28,000	-	-	-	-		$ -						$ -	
4	2011 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 28,600	-	-	-	2,600		$ 2,600						$ -	
5	2003 Tax Allocation Bonds Series A	Bonds Issued On or Before 12/31/10	$ 17,825,683	-	-	-	278,452		$ 278,452						$ -	
6	2003 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 40,500	-	-	-	725		$ 725						$ -	
7	2003 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 39,250	-	-	-	-		$ -						$ -	
8	2003 Tax Allocation Bonds Series A-Indenture of Trust	Fees	$ 35,000	-	-	-	2,500		$ 2,500						$ -	
9	2003 Tax Allocation Bonds Series B	Bonds Issued On or Before 12/31/10	$ 5,783,625	-	-	-	70,500		$ 70,500						$ -	
10	2003 Tax Allocation Bonds Series B-Indenture of Trust	Fees	$ 4,500	-	-	-	725		$ 725						$ -	
11	2003 Tax Allocation Bonds Series B-Indenture of Trust	Fees	$ 3,000	-	-	-	-		$ -						$ -	
12	2003 Tax Allocation Bonds Series B-Indenture of Trust	Fees	$ 5,000	-	-	-	2,500		$ 2,500						$ -	
21	Housing Loan for ERAF FY 09-10	SERAF/ERAF	$ 532,601	-	-	-	-		$ -						$ -	
28	DDA - Sycamore Parking Concepts	OPA/DDA/Construction	$ 1,965,000	-	-	-	90,000		$ 90,000						$ -	
30	Erickson Lease Agreement - Honda	Business Incentive Agreements	$ 2,151,473	-	-	113,235	-		$ 113,235						$ -	
33	Off Site Improvements (Nexus)	Improvement/Infrastructure	$ 5,000,000	-	-	-	-		$ -						$ -	
34	Project Costs for Item #33	Project Management Costs	$ 123,250	-	-	-	-		$ -						$ -	
35	SA Venture Partnership & Other MainPlace Agreements	OPA/DDA/Construction	$ 1,600,000	-	-	-	-		$ -						$ -	
36	Project Costs for Item #35	Project Management Costs	$ 100,000	-	-	-	-		$ -						$ -	
37	DDA - Discovery Science Center	OPA/DDA/Construction	$ 199,000	-	-	-	-		$ -						$ -	
43	Downtown Parking Structure Improvements	Improvement/Infrastructure	$ 5,831,789	-	-	-	-		$ -						$ -	
50	Agmt for Financial Consulting Services	Professional Services	$ 100,000	-	-	-	-		$ -						$ -	
62	Audited Financial Statements / Due Diligence Reviews	Professional Services	$ 375,000	-	-	-	-		$ -						$ -	
63	Employee Pension Liability	Unfunded Liabilities	$ 736,732	-	-	-	-		$ -						$ -	
64	Other Postemployment Benefits (OPEB)	Unfunded Liabilities	$ 321,236						$ -						$ -	
65	Actuarial Study	Unfunded Liabilities	$ 70,000	-	-	-	-		$ -						$ -	
66	Successor Agency Admin	Admin Costs	$ 4,225,328	-	-	-	-		$ -						$ -	
70	DDA - Habitat for Humanity	OPA/DDA/Construction	$ -	-	-	-	-		$ -		250,000				$ 250,000	Developer fee for final 5 units
71	Project Costs for Item #70	Project Management Costs	$ -	-	-	-	-		$ -						$ -	
119	Employee Layoff/Termination Payment Obligation	Unfunded Liabilities	$ 228,029						$ -						$ -	
129	Housing Entity Administrative Cost Allowance	Housing Entity Admin Cost	$ 600,000						$ -						$ -	
			$ -						$ -						$ -	

EXHIBIT A