

**Agenda Of The Regular Meeting – Oversight Board for the Successor Agency to the
Redevelopment Agency of the City of National City
Council Chambers
Civic Center
1243 National City Boulevard
National City, California
Wednesday – November 19, 2014 – 3:00 P.M.**

Open To The Public

Please complete a request to speak form prior to the commencement of the meeting and submit it to the Oversight Board Secretary.

It is the intention of your National City Oversight Board to be receptive to your concerns in this community. Your participation in local government will assure a responsible and efficient City of National City. We invite you to bring to the attention of the Board Chairman any matter that you desire the National City Oversight Board to consider. We thank you for your presence and wish you to know that we appreciate your involvement.

ROLL CALL

Pledge of Allegiance to the Flag by Chairman Ron Morrison

Public Oral Communications (Three-Minute Time Limit)

NOTE: Pursuant to state law, items requiring National City Oversight Board action must be brought back on a subsequent National City Oversight Board Agenda unless they are of a demonstrated emergency or urgent nature.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**It is Requested That All Cell Phones
And Pagers Be Turned Off During The Meetings**

OVERSIGHT BOARD ACTIONS

1. Approval of the Minutes of the Special Meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency meeting held on October 22, 2014.
2. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency authorizing the Chairman to execute the Agreement of Resignation, Appointment and Acceptance by and between the Successor Agency, Duetsche Bank National Trust Company ("Deutsche Bank"), US Bank National Association ("US Bank"), and Ambac Assurance Corporation accepting the resignation of US Bank as trustee for the 2004 Tax Allocation Bonds, Series A, and 2005 Tax Allocation Refunding Bonds, Series B, and appointing Deutsche Bank as trustee. (Finance) (Reso 2014-09)
3. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency") authorizing the Chairman to execute a Third Amendment to the Agreement for Legal Services between the Successor Agency and Christensen & Spath, LLP, to extend the term for two years and increase the not to exceed amount by \$100,000, for a total agreement amount of \$450,000. (Successor Agency Counsel) (Reso 2014-10)
4. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency authorizing the Chairman to execute a Sixth Amendment to the Agreement for Legal Services between the Successor Agency to the Community Development Commission as the National City Redevelopment Agency, the City of National City, and Best Best & Krieger, LLP, for the defense in the Community Youth Athletic Center legal challenge to increase the not to exceed amount by \$225,000 for a total not-to-exceed amount of \$787,500. (Successor Agency Counsel) (Reso 2014-11)

REPORTS

5. Update on Redevelopment Issues

ADJOURNMENT

Adjourn to the next regular meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency scheduled on December 17, 2014 at 3:00 p.m. in Council Chambers, Civic Center.

**MINUTES OF THE SPECIAL MEETING OF THE OVERSIGHT BOARD TO THE
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF
THE CITY OF NATIONAL CITY**

OCTOBER 22, 2014

This Special Meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency was called to order at 1:06 pm by Chairman Ron Morrison.

ROLL CALL

Board Members Present: Fellows, Carson, Desrochers, Morrison, Perri, McCarthy, Hentschke

OTHER STAFF PRESENT: Brad Raulston, Executive Director; Carlos Aguirre, Community Development Manager-Housing; Alfredo Ybarra, Director of Housing, Grants and Asset Management-Housing; Jocker Alejandro, Property Agent-Housing; Claudia Silva, Successor Agency Counsel

PLEDGE OF ALLEGIANCE by Chairman Ron Morrison

PRESENTATIONS: None

OVERSIGHT BOARD ACTIONS

1. **SUBJECT:** Approval of the Minutes of the Regular Meeting of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of National City Meeting held on September 17, 2014.

RECOMMENDATION: Approve the minutes as presented.

ACTION: Motion by Perri, seconded by Hentschke to approve the minutes of the Regular Meeting of the Oversight Board meeting held September 17, 2014. Motion carried by the following vote:

Ayes: Fellows, Desrochers, Morrison, McCarthy, Perri, Hentschke

Abstain: Carson

2. **SUBJECT:** Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency approving the a Long Range Property Management Plan Pursuant to Health and Safety Code Section 34191.5 – Housing, Grants & Asset Management (Reso 2014-07)

RECOMMENDATION: Approve the Resolution. **(Resolution 2014-07)**

ACTION: Motioned by Hentschke, seconded by Desrochers to approve the resolution with Board recommendations. Motion carried by the following vote: Ayes: Fellows, Desrochers, Morrison, McCarthy, Perri, Hentschke
No: Carson

3. **SUBJECT:** Resolution of the Oversight Board to Successor Agency to the CDC as the National City Redevelopment Agency authorizing the Chairman to ratify an Agreement between the Successor Agency and Geosyntec Consultants, Inc. in the not-to-exceed amount of \$300,000, to provide on call professional services involving environmental oversight, monitoring testing, reporting and remediation of environmental contaminants and/or hazardous materials at properties controlled by the Successor Agency. – Engineering/Public Works

REPORTS

4. Update on Redevelopment Issues

ADJOURNMENT

The special meeting was adjourned to the next Regular Meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency to be held on November 19, 2014 at 3:00 p.m., Council Chambers – National City Civic Center, California.

The meeting adjourned at 2:16 p.m.

Clerk

Secretary

The foregoing minutes were approved at the Regular Meeting of November 19, 2014.

Oversight Board Chairman

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO
THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AGENDA STATEMENT**

MEETING DATE: November 19, 2014

AGENDA ITEM NO. 2

ITEM TITLE:

Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency authorizing the Chairman to execute the Agreement of Resignation, Appointment and Acceptance by and between the Successor Agency, Deutsche Bank National Trust Company ("Deutsche Bank"), US Bank National Association ("US Bank"), and Ambac Assurance Corporation accepting the resignation of US Bank as trustee for the 2004 Tax Allocation Bonds, Series A, and 2005 Tax Allocation Refunding Bonds, Series B, and appointing Deutsche Bank as trustee.

PREPARED BY: Mark Roberts, Director of Finance **DEPARTMENT:** Finance

PHONE: 619-336-4265

APPROVED BY: Mark Roberts

EXPLANATION:

Deutsche Bank National Trust Company ("Deutsche Bank") and the Community Development Commission of the City of National City ("CDC") entered into an indenture of trust dated as of June 1, 2004 and subsequent supplemental indentures of trust dated as of January 1, 2005, pursuant to which the CDC's 2004 Tax Allocation Bonds, Series A, and 2005 Tax Allocation Refunding Bonds, Series B, ("Bonds") were issued; and Deutsche Bank has been acting as trustee of the Bonds.

Pursuant to ABX1 26, all redevelopment agencies in the State of California were dissolved as of February 1, 2012. Upon dissolution of the City of National City's Redevelopment Agency ("RDA"), the City assumed the role of Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency").

On March 18, 2013, Deutsche Bank sold its municipal bond trustee business to US Bank National Association ("US Bank"). In connection with the sale, Deutsche Bank wishes to resign as the trustee under the trust Indenture, and US Bank wishes to be appointed as the successor. The Agreement of Resignation, Appointment and Acceptance provides for US Bank, Deutsche Bank, the Successor Agency, and the bond insurer, Ambac Assurance Corporation, to agree to such resignation and appointment.

FINANCIAL STATEMENT:

APPROVED: Mark Roberts Finance

ACCOUNT NO.

APPROVED: _____ MIS

NA

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: **INTRODUCTION:** **FINAL ADOPTION:**

STAFF RECOMMENDATION:

Adopt the resolution.

BOARD / COMMISSION RECOMMENDATION:

NA

ATTACHMENTS:

1. Agreement
2. Resolution

AGREEMENT OF RESIGNATION, APPOINTMENT AND ACCEPTANCE

THIS AGREEMENT OF RESIGNATION, APPOINTMENT AND ACCEPTANCE (this "Agreement") dated as of November 11, 2014 by and among Deutsche Bank National Trust Company, a national banking association organized and existing under the laws of the United States of America (the "Resigning Trustee"), Successor Agency to the Community Development Commission as the National City Redevelopment Agency (the "Successor Agency" and "Issuer"), Ambac Assurance Corporation (the "Bond Insurer") and U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America (the "Successor").

WHEREAS, the Resigning Trustee, or its predecessor in interest, and the Issuer entered into the Indentures of Trust dated as of June 1, 2004, as supplemented as well as any and all ancillary agreements (together to be known as the "Governing Instruments") pursuant to which the Issuer's bonds, as set forth on the attached Schedule 1 (the "Bonds"), were issued; and the Resigning Trustee has been acting in the capacities assigned to it by the Governing Instruments (all such applicable roles being hereinafter included in the term the "Trustee");

WHEREAS, the purchase agreement, dated as of March 14, 2013 as the same may be amended from time to time by and among Deutsche Bank Trust Company Americas, Deutsche Bank National Trust Company, Deutsche Bank AG and U.S. Bank National Association provides for the sale of the Resigning Trustee's portfolio (the "Portfolio") of specified securities including the Governing Instruments to the Successor, subject to receipt of all required consents.

WHEREAS, pursuant to the Governing Instruments, the Resigning Trustee desires to resign as the Trustee, the Successor Agency desires to appoint the Successor as Trustee and the Successor desires to accept appointment as Trustee.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

ARTICLE I SUCCESSION

Section 1.1 Resignation of Resigning Trustee. The Resigning Trustee resigns as the Trustee as of the close of business August 23, 2013 (the "Effective Date"). The Successor Agency with the approval of the Bond Insurer, accepts such resignation and waives any required notice thereof.

Section 1.2 Appointment of Successor. The Successor Agency with the approval of the Bond Insurer appoints the Successor to serve as Trustee, with all the authority, rights, powers and immunities vested in, and all duties and obligations binding on, the Trustee, on the Effective Date. All rights, powers, duties, immunities and obligations of the Trustee shall be vested in and undertaken by the Successor on and from the Effective Date.

Section 1.3 Acceptance of Appointment; Notice to Bondholders. The Successor accepts its appointment as Trustee by the Successor Agency with all the authority, rights, powers and immunities vested in the Trustee and agrees to serve as Trustee and to perform the duties and obligations of the Trustee, on and from the Effective Date. The Successor agrees to notify the registered holders of the Bonds of the resignation of the Resigning Trustee and its appointment as Trustee to the extent, if any, and

in the manner, if any, required by the relevant Governing Instruments. The Successor also agrees to notify the Successor Agency and Bond Insurer in the event of a change in the Effective Date.

Section 1.4 Assignment of Powers and Property; Delivery of Documents. The Resigning Trustee, hereby confirms and assigns to the Successor, in trust under the Governing Instruments, all property, rights, powers, duties, trusts, immunities and obligations of the Resigning Trustee as Trustee. The Resigning Trustee confirms that it has transferred to the Successor (a) all moneys, securities and other assets held under the relevant Governing Instruments, (b) all documents relating to the trust created by the relevant Governing Instruments.

Section 1.5 Further Assurances. The Resigning Trustee agrees, upon reasonable request of the Successor, to execute, acknowledge and deliver such further instruments of transfer and further assurances and to do such other things as may reasonably be required for more fully and certainly vesting and confirming in Successor all the property, rights, powers, duties, trusts, immunities and obligations of the Resigning Trustee as Trustee.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the Issuer. The Issuer hereby represents and warrants to the Successor as follows:

- (a) the relevant Governing Instruments and the Bonds were validly and lawfully executed and delivered by the Issuer and constitute obligations of the Issuer enforceable as provided therein by the Successor, subject to laws affecting creditors' rights and equitable principles;
- (b) the Issuer has performed or fulfilled each covenant, agreement and condition on its part to be performed or fulfilled under the Governing Instruments on or prior to the date hereof; and
- (c) to its knowledge, no event of default under the Governing Instruments has occurred and is continuing.

Section 2.2 Representations and Warranties of Resigning Trustee. Resigning Trustee hereby represents and warrants to Successor as follows:

- (a) resigning Trustee is a national banking association, and is duly organized and existing under the laws of the United States of America;
- (b) from March 14, 2013 until the date hereof, the Governing Instruments have not been amended or supplemented;
- (c) from March 14, 2013 until the date hereof, Resigning Trustee has received no written notice of any event of default under the terms of the Governing Instruments; and
- (d) to the knowledge of the officer of the Resigning Trustee who is responsible for the administration of the Governing Instruments, there is no suit, action, claim or proceeding pending or threatened against the Resigning Trustee related to the Bonds, the relevant Governing Instruments, or Resigning Trustee's administration of the trusts created under the Governing Instruments.

Section 2.3 Representations of Successor. The Successor hereby represents and warrants to Resigning Trustee and the Issuer as follows:

(a) The Successor is a national banking association, and is duly organized and existing under the laws of the United States of America; and

(b) The Successor is qualified and eligible to serve as Trustee under the Governing Instruments.

ARTICLE III MISCELLANEOUS

Section 3.1 Applicable Law. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions; provided, however, that as between the Resigning Trustee and the Successor, this Agreement shall be governed by the laws of the State of New York, without regard to its conflict of laws provisions, **PROVIDED, FURTHER, THAT IN NO EVENT SHALL ANY CONTROVERSY, CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT TO WHICH THE ISSUER IS MADE A PARTY BE ADJUDICATED OUTSIDE OF THE STATE OF CALIFORNIA, AND FOR THE PURPOSES OF SUCH CONTROVERSY, CLAIM OR DISPUTE TO WHICH THE ISSUER IS A PARTY, THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.**

Section 3.2 Counterparts. This Agreement may be executed in a number of counterparts, each of which shall constitute an original, but such counterparts shall together constitute but one and the same instrument.

Section 3.3 Preservation of Rights. Except as expressly provided herein, nothing contained in this Agreement shall in any way affect the obligations or rights of the Issuer, the Resigning Trustee, the Successor or any holder of the Bonds under the Governing Instruments. As between the Resigning Trustee and the Successor, nothing in this Agreement, express or implied, is intended or shall be construed to modify, expand or limit in any way the rights or obligations of the parties under, and the terms of, the Purchase Agreement.

Section 3.4 Severability. In the event any provisions of this Agreement shall be held invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 3.5 Survival of Obligations. Notwithstanding the resignation of the Resigning Trustee under the Governing Instruments, the Issuer shall remain obligated under the Governing Instruments to compensate, reimburse and indemnify the Resigning Trustee as provided in the Governing Instruments, and nothing contained in this Agreement shall in any way abrogate the obligations of the Issuer to the Resigning Trustee under the Governing Instruments or any lien created in favor of the Resigning Trustee thereunder.

Section 3.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Resigning Trustee, the Successor, and the Issuer and their respective successors and assigns.

Section 3.7 Amendments. This Agreement shall be amended only in a writing signed by the parties hereto.

Section 3.8 Approval. This Agreement shall require the approval of the Successor Agency, Oversight Board to the Successor Agency, and the California Department of Finance prior to being effective.

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have executed this Agreement by their duly authorized corporate officers as of the date first above written.

AMBAC ASSURANCE CORPORATION
as Bond Insurer

SUCCESSOR AGENCY TO THE COMMUNITY
DEVELOPMENT COMMISSION AS THE
NATIONAL CITY REDEVELOPMENT
AGENCY
as Successor Agency and Issuer

By _____

By _____

(print name and title above)

(print name and title above)

DEUTSCHE BANK NATIONAL TRUST
COMPANY
as Resigning Trustee

U.S. BANK NATIONAL ASSOCIATION
as Successor

By _____

By _____

Dennis D. Gillespie
Its Director

Terry McRoberts
Its Executive Vice President

DEUTSCHE BANK NATIONAL TRUST
COMPANY
as Resigning Trustee

By _____

John Robertson
Its Vice President

SCHEDULE 1

Community Development Commission of the City of National City, National City Redevelopment Project, 2004 Tax Allocation Bonds, Series A

Community Development Commission of the City of National City (National City Redevelopment Project) 2005 Tax Allocation Refunding Bonds, Series B

Ambac Assurance Corporation
Attn: Stephen Ksenak
One State Street Plaza
New York, NY 10004

Role: Insurer

Standard & Poor's
Attn:
55 Water Street 38th Floor
New York, NY 10041

Role: Rating Agency

RESOLUTION NO. 2014 – 09

RESOLUTION OF THE OVERSIGHT BOARD OF THE
SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS
THE NATIONAL CITY REDEVELOPMENT AGENCY AUTHORIZING
THE CHAIRMAN OF THE SUCCESSOR AGENCY TO EXECUTE
THE AGREEMENT OF RESIGNATION, APPOINTMENT, AND ACCEPTANCE BY AND
BETWEEN THE SUCCESSOR AGENCY, DEUTSCHE BANK NATIONAL TRUST COMPANY,
US BANK NATIONAL ASSOCIATION, AND AMBAC ASSURANCE CORPORATION
ACCEPTING THE RESIGNATION OF US BANK AS TRUSTEE FOR
THE 2004 TAX ALLOCATION BONDS, SERIES A, AND 2005 TAX ALLOCATION
REFUNDING BONDS, SERIES B, AND APPOINTING DEUTSCHE BANK AS TRUSTEE

WHEREAS, Deutsche Bank National Trust Company ("Deutsche Bank") and the Community Development Commission as the National City Redevelopment Agency ("CDC") entered into indentures of trust dated June 1, 2004, pursuant to which the CDC's 2004 Tax Allocation Bonds, Series A, and 2005 Tax Allocation Refunding Bond, Series B, ("Bonds") were issued, with Deutsche Bank acting as trustee of the Bonds; and

WHEREAS, pursuant to Assembly Bill 26 as amended in Assembly Bill 1484, all redevelopment agencies in the State of California were dissolved as of February 1, 2012, and upon dissolution of the CDC, the City of National City ("City") assumed the role of Successor Agency to the CDC ("Successor Agency"); and

WHEREAS, on March 18, 2013, Deutsche Bank sold its municipal bond trustee business to US Bank National Association ("US Bank"), and in connection with the sale, Deutsche Bank desires to resign as the trustee under the trust indenture, and US Bank desires to be appointed as the successor trustee, and further, the Bonds' issuer, Ambac Assurance Corporation, agrees to such resignation and appointment (the "Resignation and Appointment"); and

WHEREAS, the Oversight Board of the Successor Agency ("Oversight Board"), at its regular meeting taking place on November 19, 2014 considered the authorization of the Successor Agency's Chairman to execute all documents related to the Resignation and Appointment ("Authorization"), said Authorization having been approved by the Successor Agency on November 18, 2014, and recommended for Oversight Board approval by staff, along with all evidence presented, both in favor and against the Authorization, if any; and

WHEREAS, approval of the Authorization is not a "Project" under section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because the proposed action consists of administrative activity that will not result in direct or indirect physical changes to the environment and, as such, pursuant to section 15061(b)(3) of the CEQA Guidelines is not subject to CEQA.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency as follows:

SECTION 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. The Oversight Board hereby authorizes the Chairman of the Successor Agency and his designee(s) to execute the Agreement of Resignation, Appointment,

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November 19, 2014
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and Acceptance by and between the Successor Agency, Deutsche Bank National Trust Company, US Bank National Association, and Ambac Assurance Corporation accepting the resignation of US Bank as Trustee for the 2004 Tax Allocation Bonds, Series A, and 2005 Tax Allocation Refunding Bonds, Series B, and appointing Deutsche Bank as trustee.

SECTION 3. A true, correct and complete copy of the Agreement of Resignation, Appointment, and Acceptance shall be maintained on file in the office of the City Clerk.

SECTION 4. Pursuant to Health and Safety Code Section 34179(h), all Oversight Board actions may be reviewed by the Department of Finance; therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State Department of Finance.

SECTION 5. The Oversight Board Secretary and/or Successor Agency Secretary shall certify to the adoption of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the foregoing resolution was duly and regularly adopted at a regular meeting of the Oversight Board for the Successor Agency to the Community Development Commission as the National City Redevelopment Agency held on the 19th day of November 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ron Morrison, Chairman

ATTEST:

Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:

Oversight Board Counsel
Edward Z. Kotkin, Esq.
Law Offices of Edward Z. Kotkin

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO
THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AGENDA STATEMENT**

MEETING DATE: November 19, 2014

AGENDA ITEM NO. 3

ITEM TITLE: Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency") authorizing the Chairman to execute a Third Amendment to the Agreement for Legal Services between the Successor Agency and Christensen & Spath, LLP, to extend the term for two years and increase the not to exceed amount by \$100,000, for a total agreement amount of \$450,000.

PREPARED BY: Brad Raulston

DEPARTMENT: Successor Agency

PHONE: Ext 4256

EXPLANATION:

APPROVED BY: 

On December 7, 2010, the CDC and the law firm of Christensen & Spath entered into a two-year Agreement for the total amount of \$150,000, wherein the Firm agreed to provide litigation support and legal services for real estate transactions for both market rate and affordable housing redevelopment projects, as well as commercial and industrial projects. The firm is assisting the Agency with certain aspects of the WI-TOD Project.

Because all redevelopment agencies were dissolved by the State, the First Amendment dated October 30, 2012, was between the Successor Agency to the Community Development Commission as the National City Redevelopment Agency and Christensen & Spath to extend the term for two years, expiring December 6, 2014, and to increase the not to exceed amount by \$125,000. On April 1, 2014, the Successor Agency approved the Second Amendment to increase the not to exceed amount by \$75,000, for a total Agreement amount of \$350,000.

A third amendment is necessary to extend the term for two years, expiring December 6, 2016, and to increase the not-to-exceed amount by \$100,000, for a total Agreement amount of \$450,000, for continued legal services in the on-going WI-TOD Project and the Morgan Square litigation. The Third Amendment will require the approval of the Oversight Board to the Successor Agency and the California Department of Finance prior to being effective.

FINANCIAL STATEMENT:

APPROVED: _____ **Finance**

ACCOUNT NO.

APPROVED: _____ **MIS**

Funds are budgeted in Account 711-409-000-209-0000

ENVIRONMENTAL REVIEW:

N/A

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt the Resolution and submit to Department of Finance, County of San Diego, and State Controller's Office

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Third Amendment to the Agreement
2. Approved Successor Agency Resolution
3. Proposed OB Resolution 2014-10

**THIRD AMENDMENT TO AGREEMENT
BY AND BETWEEN
THE SUCCESSOR AGENCY TO
THE COMMUNITY DEVELOPMENT COMMISSION AS
THE NATIONAL CITY REDEVELOPMENT AGENCY,
AND
CHRISTENSEN & SPATH, LLP**

This Third Amendment to the Agreement is entered into this 18th day of November, 2014, by and between THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY, a public body, corporate and politic (the "SUCCESSOR AGENCY") (formerly the Community Development Commission of the City of National City, a public body (the "CDC")), and CHRISTENSEN & SPATH, LLP, (the "FIRM").

RECITALS

- A. The CDC and the FIRM (the "Parties") entered into a two-year Agreement on December 7, 2010, (the "Agreement") wherein the FIRM agreed to provide legal services, as and when requested by the CDC, involving issues of affordable housing, redevelopment law, and related litigation, if requested, in the amount of \$150,000, and subject to the terms of the Agreement.
- B. Due to the dissolution of redevelopment agencies by the State of California, the Successor Agency adopted Resolution No. 2012-24, approving a First Amendment between the SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY (the "SUCCESSOR AGENCY") and CHRISTENSEN & SPATH to extend the term of the Agreement for an additional two years, expiring on December 6, 2014, and increase the not to exceed amount by \$125,000, for a total not to exceed amount of \$275,000.
- C. On April 1, 2014, the Successor Agency approved the Second Amendment to increase the not to exceed amount by \$75,000 for ongoing legal expenses, for a total not to exceed amount of \$350,000.
- D. The affordable housing responsibilities remained under the CDC as the "CDC-HA".
- E. The FIRM currently represents the SUCCESSOR AGENCY in the litigation matter of Morgan Square, (Superior Court Case No. 37-2013-00054606-CU-OR-CTL), and is currently assisting with ongoing legal aspects of the WI-TOD Project.
- F. The FIRM currently provides legal services to the CDC-HA in affordable housing matters.

- G. The Parties desire to amend the Agreement to extend the term for two additional years, with an expiration date of December 6, 2016, and increase the not to exceed amount by \$100,000, for a total not to exceed amount of \$450,000.
- H. This Third Amendment will require the approval of the Oversight Board to the Successor Agency and the California Department of Finance prior to being effective.

NOW, THEREFORE, the parties hereto agree that the Agreement entered into on December 7, 2010, shall be amended by amending Article 12 of the Agreement by extending the term of the Agreement for two additional years, expiring December 6, 2016.

THE PARTIES FURTHER AGREE that Article 3 (Compensation), Section C of the Agreement shall be amended to increase the not to exceed amount by \$100,000, for a total not to exceed amount of \$450,000.

THE PARTIES FURTHER AGREE that with the foregoing exception, each and every term and provision of the Agreement dated December 7, 2010, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to the Agreement on the date and year first above written.

**SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT
COMMISSION AS THE NATIONAL CITY
REDEVELOPMENT AGENCY**

CHRISTENSEN & SPATH, LLP

By: _____
Charles Christensen, Esq.

By: _____
Ron Morrison, Chairman

APPROVED AS TO FORM:

By: _____
Claudia Gacitua Silva
Successor Agency General Counsel

RESOLUTION NO. 2014 – 10

RESOLUTION OF THE OVERSIGHT BOARD OF THE
SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS
THE NATIONAL CITY REDEVELOPMENT AGENCY APPROVING
AND AUTHORIZING THE CHAIRMAN OF THE SUCCESSOR AGENCY
TO EXECUTE THE THIRD AMENDMENT TO THE AGREEMENT FOR LEGAL SERVICES
BETWEEN THE SUCCESSOR AGENCY AND CHRISTENSEN & SPATH, LLP, TO EXTEND
THE TERM FOR TWO YEARS AND INCREASE THE NOT TO EXCEED
AMOUNT BY \$100,000, FOR A TOTAL AGREEMENT AMOUNT OF \$450,000

WHEREAS, on December 7, 2010, the Community Development Commission as the National City Redevelopment Agency ("CDC") and the law firm of Christensen & Spath (the "Firm") entered into a two-year Agreement for the total amount of \$150,000 ("Agreement"), wherein the Firm agreed to provide litigation support, and legal services for real estate transactions for both market rate and affordable housing redevelopment projects, as well as commercial and industrial projects; and

WHEREAS, pursuant to Assembly Bill 26 as amended in Assembly Bill 1484, all redevelopment agencies in the State of California were dissolved as of February 1, 2012, and upon dissolution of the CDC, the City of National City ("City") assumed the role of Successor Agency to the CDC ("Successor Agency"); and

WHEREAS, on October 30, 2012, the Successor Agency adopted Resolution No. 2012-24 to extend the term of the Agreement for an additional two years (expiring December 6, 2014), and to increase the not to exceed amount by \$125,000; and

WHEREAS, on April 1, 2014, the Successor Agency adopted Resolution No. 2014-45 to increase the not to exceed amount in the Agreement by \$75,000, for a total not to exceed amount of \$350,000; and

WHEREAS, Christensen & Spath currently represents the Successor Agency in the litigation matter of Morgan Square, (Superior Court Case No. 37-2013-00054606-CU-OR-CTL), and is assisting with ongoing legal aspects of the WI-TOD Project; and

WHEREAS, the Firm and the Successor Agency desire to amend the Agreement to extend the term by two years, expiring on December 6, 2016, and to increase the not to exceed amount by \$100,000, for a total not to exceed amount of \$450,000; and

WHEREAS, this Third Amendment requires the approval of the Oversight Board of the Successor Agency ("Oversight Board"), and the California Department of Finance prior to being effective.

WHEREAS, the Oversight Board, at its regular meeting taking place on November 19, 2014 considered the authorization of the Successor Agency's Chairman to execute the Third Amendment ("Authorization"), said Authorization having been approved by the Successor Agency on November 18, 2014, and recommended for Oversight Board approval by staff, along with all evidence presented, both in favor and against the Authorization, if any; and

WHEREAS, approval of this Authorization is not a "Project" under section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because the proposed action consists of administrative activity that will not result in direct or indirect physical changes to the environment and, as such, pursuant to section 15061(b)(3) of the CEQA Guidelines is not subject to CEQA.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency as follows:

SECTION 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. The Oversight Board hereby authorizes the Chairman of the Successor Agency and his designee(s) to execute a Third Amendment to the Agreement by and between the Successor Agency and Christensen & Spath, LLP, extend the term by two years, expiring on December 6, 2016, and to increase the not to exceed amount by \$100,000, for a total not to exceed amount of \$450,000.

SECTION 3. A true, correct and complete copy of the Third Amendment shall be maintained on file in the office of the City Clerk.

SECTION 4. Pursuant to Health and Safety Code Section 34179(h), all Oversight Board actions may be reviewed by the Department of Finance; therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State Department of Finance.

SECTION 5. The Oversight Board Secretary and/or Successor Agency Secretary shall certify to the adoption of this Resolution.

PASSED and ADOPTED this 19th day of November, 2014.

--- Signature Block on Next Page ---

OB Resolution No. 2014-10
November 19, 2014
Page Two

NOW, THEREFORE, BE IT RESOLVED that the foregoing Resolution was duly and regularly adopted at a regular meeting of the Oversight Board for the Successor Agency to the Community Development Commission as the National City Redevelopment Agency held on the 19th day of November 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ron Morrison, Chairman

ATTEST:

Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:

Oversight Board Counsel
Edward Z. Kotkin, Esq.
Law Offices of Edward Z. Kotkin

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO
THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AGENDA STATEMENT**

MEETING DATE: November 19, 2014

AGENDA ITEM NO. 4

ITEM TITLE: Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency") authorizing the Chairman to execute a Sixth Amendment to the Agreement for Legal Services between the Successor Agency to the Community Development Commission as the National City Redevelopment Agency, The City of National City, and Best Best & Krieger, LLP, for the defense in the Community Youth Athletic Center legal challenge to increase the not to exceed amount by \$225,000 for a total not-to-exceed amount of \$787,500.

PREPARED BY: Brad Raulston

DEPARTMENT: Successor Agency

PHONE: Ext 4256

EXPLANATION:

APPROVED BY: 

Please see attached Staff Report

FINANCIAL STATEMENT:

APPROVED: _____ Finance

ACCOUNT NO.

APPROVED: _____ MIS

Funds are budgeted in Account 711-409-000-209-0000

ENVIRONMENTAL REVIEW:

N/A

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt the Resolution and submit to Department of Finance, County of San Diego, and State Controller's Office

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Third Amendment to the Agreement
2. Approved Successor Agency Resolution
3. Proposed OB Resolution 2014-11

STAFF REPORT

This matter is a result of the Community Youth Athletic Center ("CYAC") legal challenge to the 2007 Redevelopment Plan Amendment. In addition to the Plan Amendment challenge, the CYAC made other claims, including violations of the Public Records Act and due process. This lawsuit has been working its way through the legal system since the Fall of 2007. Judge Denton invalidated the 2007 Redevelopment Plan Amendment, found that the Public Records Act was not complied with when draft notes and consultant's documents were not provided, and found the CYAC was not provided due process because they did not have sufficient time to object to the plan amendment. The Court's award of attorney's fees totaling approximately two-million dollars (\$2,000,000) was appealed to the 4th District Court of Appeals. The case remains ongoing as it has been remanded to the trial court for further proceedings after appeal, and the trial court has requested additional briefing regarding petitioners' most recent request for approximately \$2,400,000 in attorneys' fees (which does not include the amount of attorney time CYAC has spent on the latest legal issue), thus continued legal representation remains necessary. Given the number of years this case has spanned, an extensive amount of legal work has been required to examine CYAC's attorneys' bills (involving entries by over twenty attorneys on petitioners' side) in light of the Court of Appeals ruling. The extensive bill review and supplemental briefings for the trial court has exceeded the previously authorized amounts.

Bruce Beach and Rebecca Andrews of Best Best & Krieger, LLP ("BB&K") have been our outside counsel in this case. Given the nature and 7 year length of the case, additional funds in the amount of \$225,000 are needed to fund the current opposition to the attorneys' fees motion.

The Successor Agency and City Council have previously approved a total of \$562,500 for legal services in this case.

This Sixth Amendment to the Agreement in the amount of \$225,000 is necessary to pay for the ongoing litigation, which will bring the total not-to-exceed amount to \$787,500. This is anticipated to be the last amendment as the attorneys' fees motions are the last outstanding issues in this matter. The Sixth Amendment will also require the approval of the Oversight Board and State Department of Finance prior to becoming effective.

**SIXTH AMENDMENT TO AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY,
THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY,
AND
BEST BEST & KRIEGER, LLP**

This Sixth Amendment to Agreement is entered into this 21st day of November, 2014, by and between THE CITY OF NATIONAL CITY, a municipal corporation, (the "CITY"), THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY, a public body, corporate and politic, (the "SUCCESSOR AGENCY"), and BEST BEST & KRIEGER, LLP, (the "FIRM").

RECITALS

- A. The CITY, the SUCCESSOR AGENCY and the FIRM (the "Parties") entered into an agreement on October 9, 2010, ("the Agreement") wherein the FIRM agreed to provide legal services in the defense of the case entitled *Community Youth Athletic Association v. All Persons Interested in the Matter of the Amendment to National City's Redevelopment Plan as Adopted by Ordinance 2007-2295*, Case No. 37-2007-00076404-CU-EI-CTL, in the amount of \$160,000, and subject to the terms of the Agreement.
- B. The Parties entered into the First Amendment to the Agreement on October 18, 2011, (the "First Amendment") to increase the not-to-exceed amount of the Agreement by \$134,000, for a total Agreement not-to-exceed amount of \$294,000.
- C. The Parties entered into a Second Amendment on May 15, 2012 to increase the not-to-exceed amount by \$70,000 for a total not-to-exceed amount of \$364,000.
- D. The Parties entered into a Third Amendment on October 30, 2012 to increase the not-to-exceed amount of the Agreement by \$45,000 for a total not-to-exceed amount of \$409,000.
- E. The Parties entered into a Fourth Amendment on September 3, 2013 to increase the not-to-exceed amount of the Agreement by \$53,500 for a total not-to-exceed amount of \$462,500.
- F. The Parties entered into a Fifth Amendment on February 18, 2014 to increase the not-to-exceed amount of the Agreement by \$100,000 for a total not-to-exceed amount of \$562,500.
- G. The Parties desire to amend the Agreement to increase the not-to-exceed amount of the Agreement by \$225,000 for a total not-to-exceed amount of \$787,500.
- H. The case remains on-going as it has been remanded to the trial court for further proceedings after appeal, which has necessitated the retention of experts, the detailed review of seven years' worth of legal bills involving entries by over twenty attorneys on petitioners' side, and the trial court has requested additional briefing regarding petitioners' request for approximately \$2,400,000 in attorneys' fees, thus additional funding for continued legal representation remains necessary.

- I. On February 1, 2012, all California redevelopment agencies were dissolved, successor agencies were established as successor agencies to the former redevelopment agencies pursuant to Health and Safety Code Section 34173, and successor agencies are tasked with paying, performing, and enforcing the enforceable obligations of the former redevelopment agencies.
- J. This Sixth Amendment will require the approval of the Oversight Board to the Successor Agency and the California Department of Finance prior to being effective.

NOW, THEREFORE, the Parties agree that the Agreement entered into on October 9, 2010, and amended on October 18, 2011, May 15, 2012, October 30, 2012, September 3, 2013, and February 18, 2014 shall be amended by amending Article 3 (Compensation), Section C of the Agreement by increasing the not-to-exceed amount by \$225,000 for a total not-to-exceed amount of \$787,500.

The parties further agree that with the foregoing exception, each and every term and provision of the Agreement dated October 9, 2010, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to the Agreement on the date and year first above written.

**SUCCESSOR AGENCY TO THE COMMUNITY
DEVELOPMENT COMMISSION AS THE
NATIONAL CITY REDEVELOPMENT AGENCY**

BEST, BEST, & KRIEGER, LLP

By: _____
Ron Morrison, Chairman

By: _____
Bruce Beach, Esq.

APPROVED AS TO FORM:

By: _____
Claudia G. Silva
Successor Agency Counsel

CITY OF NATIONAL CITY

By: _____
Ron Morrison, Mayor

APPROVED AS TO FORM:

By: _____
Claudia G. Silva
City Attorney

RESOLUTION NO. 2014 – 11

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AUTHORIZING THE CHAIRMAN OF THE SUCCESSOR AGENCY
TO EXECUTE A SIXTH AMENDMENT TO THE AGREEMENT FOR LEGAL SERVICES BY
BEST BEST & KRIEGER, LLP, FOR THE DEFENSE IN THE CYAC
LEGAL CHALLENGE TO INCREASE THE NOT TO EXCEED
AMOUNT BY \$5,000, FOR A TOTAL AMOUNT OF \$737,500

WHEREAS, on November 23, 2010, the City of National City ("City"), the Community Development Commission as the National City Redevelopment Agency ("CDC") adopted Resolution No. 2010-265 approving an Agreement between the City, the CDC, and Best Best & Krieger, LLP ("BB&K"), to provide legal defense services to the City and CDC regarding the Community Youth Athletic Center ("CYAC") litigation in the not to exceed amount of \$160,000 ("Agreement"); and

WHEREAS, pursuant to Assembly Bill 26 as amended in Assembly Bill 1484, all redevelopment agencies in the State of California were dissolved as of February 1, 2012, and upon dissolution of the CDC, the City assumed the role of Successor Agency to the CDC ("Successor Agency"); and

WHEREAS, on October 18, 2011, the CDC adopted Resolution No. 2011-233 approving the First Amendment to the Agreement that increased the not to exceed amount by \$134,000, bringing the total not to exceed amount to \$294,000; and

WHEREAS, on May 15, 2012, the Successor Agency adopted Resolution No. 2011-10 authorizing the Second Amendment to the Agreement in the amount of \$70,000 for the on-going appeal process in the CYAC litigation, for a total not-to-exceed amount of \$364,000; and

WHEREAS, on October 30, 2012, the Successor Agency adopted Resolution No. 2012-25 authorizing the Third Amendment to the Agreement in the amount of \$45,000 for the on-going appeal process, for a total not-to-exceed amount of \$409,000; and

WHEREAS, on September 17, 2014, the Successor Agency adopted Resolution No. 2013-38 authorizing the Fourth Amendment to the Agreement in the amount of \$53,500 for the on-going appeal process, for a total not-to-exceed amount of \$462,500; and

WHEREAS, on February 18, 2014, the Successor Agency adopted Resolution No. 2014-42 authorizing the Fifth Amendment to the Agreement in the amount of \$100,000 for the on-going appeal process, for a total not-to-exceed amount of \$562,500; and

WHEREAS, the CYAC litigation remains on-going as it has been remanded to the trial court for further proceedings after appeal, which has necessitated the retention of experts, the detailed review of seven years' worth of legal bills involving entries by over twenty attorneys on petitioners' side, and the trial court has requested additional briefing regarding petitioners' request for approximately \$2,400,000 in attorneys' fees, thus additional funding for continued legal representation remains necessary; and

WHEREAS, BB&K and the Successor Agency desire to amend the Agreement, via this Sixth Amendment to the Agreement in the amount of \$225,000, an amount that they

jointly deem necessary for the ongoing CYAC litigation, which will bring the total not-to-exceed amount to \$787,500; and

WHEREAS, this Sixth Amendment requires the approval of the Oversight Board of the Successor Agency ("Oversight Board"), and the California Department of Finance prior to being effective.

WHEREAS, the Oversight Board, at its regular meeting taking place on November 19, 2014 considered the authorization of the Successor Agency's Chairman to execute the Sixth Amendment ("Authorization"), said Authorization having been approved by the Successor Agency on November 18, 2014, and recommended for Oversight Board approval by staff, along with all evidence presented, both in favor and against the Authorization, if any; and

WHEREAS, approval of this Authorization is not a "Project" under section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because the proposed action consists of administrative activity that will not result in direct or indirect physical changes to the environment and, as such, pursuant to section 15061(b)(3) of the CEQA Guidelines is not subject to CEQA.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency as follows:

SECTION 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. The Oversight Board hereby authorizes the Chairman of the Successor Agency to execute the Sixth Amendment to the Agreement with Best Best & Krieger, LLP ("BB&K"), to increase the not to exceed amount by \$225,000, which will bring the total not-to-exceed amount to \$787,500, to cover legal services for the ongoing Community Youth Athletic Center ("CYAC") litigation. The Sixth Amendment to the Agreement is on file in the office of the City Clerk.

SECTION 3. A true, correct and complete copy of the Sixth Amendment shall be maintained on file in the office of the City Clerk.

SECTION 4. Pursuant to Health and Safety Code Section 34179(h), all Oversight Board actions may be reviewed by the Department of Finance; therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State Department of Finance.

SECTION 5. The Oversight Board Secretary and/or Successor Agency Secretary shall certify to the adoption of this Resolution.

PASSED and ADOPTED this 19th day of November, 2014.

OB Resolution No. 2014-11
November 19, 2014
Page Three

NOW, THEREFORE, BE IT RESOLVED that the foregoing Resolution was duly and regularly adopted at a regular meeting of the Oversight Board for the Successor Agency to the Community Development Commission as the National City Redevelopment Agency held on the 19th day of November 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ron Morrison, Chairman

ATTEST:

Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:

Oversight Board Counsel
Edward Z. Kotkin, Esq.
Law Offices of Edward Z. Kotkin