

**Agenda Of The Regular Meeting – Oversight Board to 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 – May 20, 2015 – 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 Regular Meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency meeting held on February 18, 2015.
2. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency Approving and Ratifying an Agreement with Urban Futures, Inc. for Financial Advisory Services for the Period of December 1, 2013 to June 30, 2016 for an Amount not to Exceed \$50,000. (Successor Agency) (Reso 2015-03)
3. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency approving an Agreement for Legal Services between the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency"), the City of National City ("City"), and the law firm of Mazzarella & Mazzarella, LLP, superseding the prior Agreement for Legal Services between the Successor Agency, City and Mazzarella Lorenzana, LLP, contingent upon state Department of Finance approval, with no increase in the previously approved not to exceed amount of \$250,000 for hourly fees.. (Successor Agency) (Reso 2015-04)
4. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency approving an Administrative Budget for the ROPS 14-15B period (January 1, 2015 through June 30, 2015). (Successor Agency) (Reso 2015-05)
5. Resolution of the Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency authorizing the Chairman to execute a Second Amendment to the Agreement for legal services with Opper & Varco, LLP, for continued legal work regarding environmental remediation, underground storage tanks, and environmental matters related to Successor Agency-owned properties and Successor Agency obligations, and to increase the not to exceed amount by \$80,000, for a total not to exceed amount of \$130,000. (Successor Agency) (Reso 2015-06)

REPORTS

6. 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 June 17, 2015 at 3:00 p.m. in Council Chambers, Civic Center.

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

MEETING DATE: May 20, 2015

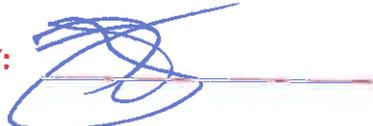
AGENDA ITEM NO. 2

ITEM TITLE: Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency Approving and Ratifying an Agreement with Urban Futures, Inc. for Financial Advisory Services for the Period of December 1, 2013 through June 30, 2016 for an Amount not to Exceed \$50,000.

PREPARED BY: Brad Rauiston, Executive Director

DEPARTMENT: Successor Agency

PHONE: (619) 336-4256

APPROVED BY: 

EXPLANATION:

On December 1, 2013 two agreements were administratively executed with Urban Futures, Inc. for financial advisory services for the period December 1, 2013 through June 30, 2016. One agreement was between the City of National City and Urban Futures, Inc., and the other was between the Successor Agency (SA) and Urban Futures, Inc. (see Attachment 1). The estimated expenditures under each of the agreements was less than \$50,000, so while the City Manager had the authority to execute the City agreement, there is no similar authority with respect to the Successor Agency. The SA agreement should have been submitted to the SA and the Oversight Boards for approval before it became effective (subject to review by the State Department of Finance). One of the key services provided under this agreement is the annual preparation and filing of the continuing disclosure documents required pursuant to the indentures of the SA's Tax Allocation Bonds. The Recognized Obligation Payment Schedules (ROPS) have consistently included amounts for financial advisory services under Item #128.

FINANCIAL STATEMENT:

ACCOUNT NO. ROPS Item #128: \$10,000

APPROVED:  Finance

APPROVED: _____ MIS

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:

Successor Agency: Adopt the Resolution

ATTACHMENTS:

1. Agreement between SA and Urban Futures, Inc.
2. Resolution

**AGREEMENT
BY AND BETWEEN
THE
SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS
THE NATIONAL CITY REDEVELOPMENT AGENCY
AND
URBAN FUTURES, INC.**

THIS AGREEMENT is entered into this 1st day of December, 2013, by and between the SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY, a municipal corporation (the "SUCCESSOR AGENCY"), and URBAN FUTURES, INC., a California Corporation (the "CONSULTANT").

RECITALS

WHEREAS, the SUCCESSOR AGENCY desires to employ a CONSULTANT to provide financial advisory services.

WHEREAS, the SUCCESSOR AGENCY has determined that the CONSULTANT is a financial advisor and is qualified by experience and ability to perform the services desired by the SUCCESSOR AGENCY, and the CONSULTANT is willing to perform such services.

WHEREAS, 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.

WHEREAS, this Agreement will require approval of the Oversight Board to the SUCCESSOR AGENCY as well as the California Department of Finance prior to being effective.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The SUCCESSOR AGENCY agrees to engage the CONSULTANT, and the CONSULTANT agrees to perform the services set forth here in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services shall be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **SCOPE OF SERVICES.** The CONSULTANT will perform financial advisory services as set forth in the attached Exhibit "A".

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the SUCCESSOR AGENCY for such services, except as authorized in advance by the SUCCESSOR AGENCY.

The SUCCESSOR AGENCY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the SUCCESSOR AGENCY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

3. **PROJECT COORDINATION AND SUPERVISION.** The Director of Finance hereby is designated as the Project Coordinator for the SUCCESSOR AGENCY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. Michael P. Busch thereby is designated as the Project Director for the CONSULTANT.

4. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The labor rates for work described in Exhibit "A" shall not exceed the rates listed in Exhibit "B." Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice.

The total compensation under this Agreement shall not exceed forty-thousand dollars (\$40,000) during the term of this agreement. Compensation for bond transactions shall be based upon the schedule included as Exhibit "B" of this Agreement (attached).

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the SUCCESSOR AGENCY, and for furnishing of copies to the SUCCESSOR AGENCY, if requested.

5. **ACCEPTABILITY OF WORK.** The SUCCESSOR AGENCY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the CONSULTANT and the SUCCESSOR AGENCY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Agreement, the SUCCESSOR AGENCY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the SUCCESSOR AGENCY shall each prepare a report which supports their position and file the same with the other party. The SUCCESSOR AGENCY shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

6. **EFFECTIVE DATE AND LENGTH OF AGREEMENT.** The duration of this Agreement is for the period of December 1, 2013 through June 30, 2016.

7. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications, and other documents prepared by the CONSULTANT for this Project, whether paper or electronic, shall become the property of the SUCCESSOR AGENCY for use with respect to this Project, and shall be turned over to the SUCCESSOR AGENCY upon completion of the Project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the SUCCESSOR AGENCY, and CONSULTANT thereby expressly waives and disclaims any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work prepared under this Agreement, except upon the SUCCESSOR AGENCY'S prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the SUCCESSOR AGENCY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the SUCCESSOR AGENCY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium, or method utilize the CONSULTANT'S written work product for the SUCCESSOR AGENCY'S purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the SUCCESSOR AGENCY of documents, drawings, or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14, but only with respect to the effect of the modification or reuse by the SUCCESSOR AGENCY, or for any liability to the SUCCESSOR AGENCY should the documents be used by the SUCCESSOR AGENCY for some project other than what was expressly agreed upon within the Scope of this project, unless otherwise mutually agreed.

8. **INDEPENDENT CONTRACTOR.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the SUCCESSOR AGENCY, and are not entitled to any of the rights, benefits, or privileges of the SUCCESSOR AGENCY'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT'S employees, and it is recognized by the parties that a substantial inducement to the SUCCESSOR AGENCY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement nor any interest herein may be assigned by the CONSULTANT without the prior written consent of the SUCCESSOR AGENCY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or SUBCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this

Agreement. All agreements by CONSULTANT with its SUBCONSULTANT(S) shall require the SUBCONSULTANT(S) to adhere to the applicable terms of this Agreement.

9. **CONTROL.** Neither the SUCCESSOR AGENCY nor its officers, agents, or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees, except as herein set forth, and the CONSULTANT expressly agrees not to represent that the CONSULTANT or the CONSULTANT'S agents, servants, or employees are in any manner agents, servants, or employees of the SUCCESSOR AGENCY, it being understood that the CONSULTANT its agents, servants, and employees are as to the SUCCESSOR AGENCY wholly independent CONSULTANTS, and that the CONSULTANT'S obligations to the SUCCESSOR AGENCY are solely such as are prescribed by this Agreement.

10. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable state and federal statutes and regulations, and all applicable ordinances, rules, and regulations of the City of National City, whether now in force or subsequently enacted. The CONSULTANT and each of its SUBCONSULTANT(S) shall obtain and maintain a current City of National City business license prior to and during performance of any work pursuant to this Agreement.

11. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

12. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT'S employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the SUCCESSOR AGENCY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT'S professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the SUCCESSOR AGENCY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the SUCCESSOR AGENCY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the SUCCESSOR AGENCY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this sub-paragraph will render the CONSULTANT liable to the SUCCESSOR AGENCY for any increased costs that

result from the SUCCESSOR AGENCY'S later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

13. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the SUCCESSOR AGENCY setting forth the provisions of this non-discrimination clause.

14. **CONFIDENTIAL INFORMATION.** The SUCCESSOR AGENCY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the SUCCESSOR AGENCY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 14, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the SUCCESSOR AGENCY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to SUCCESSOR AGENCY for any damages caused by breach of this condition.

15. **INDEMNIFICATION AND HOLD HARMLESS.** The CONSULTANT agrees to defend, indemnify and hold harmless the City of National City, the SUCCESSOR AGENCY, and their officers and employees against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suites, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S performance or other obligations under this Agreement.

16. **WORKERS' COMPENSATION.** The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Government Code and all amendments thereto; and all similar State or federal acts or laws applicable; and shall indemnify, and hold harmless the City of National City, the SUCCESSOR AGENCY, and their officers and employees from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the City of National City, the SUCCESSOR AGENCY, or their officers, employees, or volunteers for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

17. **INSURANCE.** The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Agreement, the following checked insurance policies:

A. If checked, **Professional Liability Insurance** (errors and omissions) with minimum limits of \$1,000,000 per occurrence.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles ("any auto"). The policy shall name the SUCCESSOR AGENCY and its officers, agents and employees as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of \$2,000,000 per occurrence and \$4,000,000 aggregate, covering all bodily injury and property damage arising out of its operations under this Agreement. The policy shall name the SUCCESSOR AGENCY and its officers, agents and employees as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this Agreement.

D. **Workers' Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of CONSULTANT'S employees and employers' liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the SUCCESSOR AGENCY. Said endorsement shall be provided prior to commencement of work under this Agreement.

If CONSULTANT has no employees subject to the California Workers' Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by SUCCESSOR AGENCY.

E. The aforesaid policies shall constitute primary insurance as to the SUCCESSOR AGENCY, its officers, employees, and volunteers, so that any other policies held by the SUCCESSOR AGENCY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the SUCCESSOR AGENCY of cancellation or material change.

F. If required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the "retro" date must be on or before the date of this Agreement.

G. Insurance shall be written with only California admitted companies that hold a current policy holder's alphabetic and financial size category rating of not less than A VIII according to the current Best's Key Rating Guide, or a company equal financial stability that is approved by the Risk Manager. In the event coverage is provided by non-admitted "surplus lines" carriers, they must be included on the most recent California List of Eligible Surplus Lines Insurers (LESLI list) and otherwise meet rating requirements.

H. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the Risk Manager. If the CONSULTANT does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the SUCCESSOR AGENCY may elect to treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

I. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the SUCCESSOR AGENCY.

18. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the SUCCESSOR AGENCY shall, in addition, be limited to the amount of attorney's fees incurred by the SUCCESSOR AGENCY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

19. **MEDIATION/ARBITRATION.** If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree first to try, in good faith, to settle the dispute by mediation in San Diego, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA") before resorting to arbitration. The costs of mediation shall be borne equally by the parties. Any controversy or claim arising out of, or relating to, this Agreement, or breach thereof, which is not resolved by mediation, shall be settled by arbitration in San Diego, California, in accordance with the Commercial Arbitration Rules of the AAA then existing. Any award rendered shall be final and conclusive upon the parties, and a judgment thereon may be entered in any court having jurisdiction over the subject matter of the controversy. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the costs of its own experts, evidence and attorneys' fees, except that the arbitrator may assess such expenses or any part thereof against a specified party as part of the arbitration award.

20. **TERMINATION.**

A. This Agreement may be terminated with or without cause by the SUCCESSOR AGENCY. Termination without cause shall be effective only upon 60-day's

written notice to the CONSULTANT. During said 60-day period the CONSULTANT shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the SUCCESSOR AGENCY for cause in the event of a material breach of this Agreement, misrepresentation by the CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the SUCCESSOR AGENCY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the SUCCESSOR AGENCY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the SUCCESSOR AGENCY by the CONSULTANT'S breach, if any. Thereafter, ownership of said written material shall vest in the SUCCESSOR AGENCY all rights set forth in Section 7.

E. The SUCCESSOR AGENCY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

21. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To SUCCESSOR AGENCY:

Brad Raulston, Executive Director
Successor Agency to the Community Development Commission as the
National City Redevelopment Agency
1243 National City Blvd
National City, CA 91950

To CONSULTANT:

Michael P. Busch
President
Urban Futures, Inc.
3111 N. Tustin Ave., Ste 230
Orange, CA 92865

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

22. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS.** During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the City of National City or the SUCCESSOR AGENCY. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the SUCCESSOR AGENCY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the SUCCESSOR AGENCY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the SUCCESSOR AGENCY.

If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the National City Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the City of National City in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the SUCCESSOR AGENCY for all damages, costs or expenses the SUCCESSOR AGENCY may suffer by virtue of any violation of this Paragraph 22 by the CONSULTANT.

23. **PREVAILING WAGES.** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Consultant is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

24. **MISCELLANEOUS PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.

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

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

H. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

I. *Audit.* If this Agreement exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Agreement, per Government Code Section 8546.7.

J. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

K. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

L. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

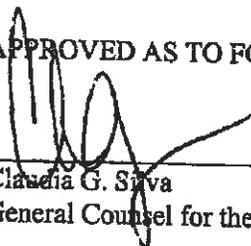
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF NATIONAL CITY

By: 

Leslie Deese, Executive Director
BRAD PARSONS

APPROVED AS TO FORM:



Claudia G. Silva
General Counsel for the Successor Agency

URBAN FUTURES, INC.
A CALIFORNIA CORPORATION
(Corporation - signatures of two corporate officers)

By: 

(Name)

Marshall Lin

(Print)

CEO

(Title)

By: 

(Name)

Michael Busch

(Print)

President

(Title)

Urban Futures, Inc., a California Corporation
Scope of Services

Financial advisory services may include, but are not limited to, assisting the Successor Agency to:

- review the Successor Agency's long-range financing strategy for its enforceable obligations; and
- review the overall financial status of the Successor Agency.

The consultant may be called upon to provide analysis of complex business plans & financial proposals made to the Successor Agency.

The consultant may also be called upon to assist with the issuance of debt, including, but not limited to:

- review of credit issues & key terms of the financing indenture;
- advising on the essential features of the bond financing structure;
- preparation or coordination of the preparation of the official statement, disclosure document, bid forms, & solicitations (as needed);
- preparation or coordination of the preparation of the ratings, bond insurance, & credit enhancement review processes;
- coordinating & compilation of any bidding for the bonds;
- working with the finance team to facilitate an effective bond closing & delivery of proceeds;
- providing post-sale advice on proceeds investments (as needed); and
- preparation & filing or coordination of the preparation & filing of continuing disclosure documents pursuant to the bond indentures.

Urban Futures, Inc., a California Corporation
Compensation and Payment

The following fee schedule pertains to the issuance of bonds, private placement loans, and hourly billing work.

Proposed F.A. Fee Structure

Utility Fee Schedule		
\$ 1,000,000	- \$ 5,000,000	= \$22,500
\$ 5,000,000	- \$ 10,000,000	= \$26,500
\$ 10,000,000	- \$ 15,000,000	= \$31,500
\$ 15,000,000	- \$ 20,000,000	= \$38,500
\$ 20,000,000	- \$ 30,000,000	= \$45,000
\$ 30,000,000	- \$ 40,000,000	= \$50,500
\$ 40,000,000	- \$ 50,000,000	= \$55,500
\$ 50,000,000	- \$ 60,000,000	= \$60,000
\$ 60,000,000	- \$ 70,000,000	= \$64,000
\$ 70,000,000	- \$ 80,000,000	= \$67,500
\$ 80,000,000	- \$ 90,000,000	= \$72,000
\$ 90,000,000	- \$ 100,000,000	= \$76,000

Tax Allocation Bond Fee Schedule		
\$ 1,000,000	- \$ 5,000,000	= \$25,000
\$ 5,000,000	- \$ 10,000,000	= \$31,500
\$ 10,000,000	- \$ 15,000,000	= \$38,000
\$ 15,000,000	- \$ 20,000,000	= \$43,500
\$ 20,000,000	- \$ 30,000,000	= \$49,500
\$ 30,000,000	- \$ 40,000,000	= \$55,000
\$ 40,000,000	- \$ 50,000,000	= \$60,000
\$ 50,000,000	- \$ 60,000,000	= \$64,250
\$ 60,000,000	- \$ 70,000,000	= \$68,000
\$ 70,000,000	- \$ 80,000,000	= \$71,500
\$ 80,000,000	- \$ 90,000,000	= \$75,500
\$ 90,000,000	- \$ 100,000,000	= \$80,000

* The Present Value of a Report is not included in the above fee schedule. An additional \$50,000 will be added to the fee to cover the Present Value Report.

General Obligation COPI Lease Structure Fee Schedule		
\$ 1,000,000	- \$ 5,000,000	= \$22,500
\$ 5,000,000	- \$ 10,000,000	= \$26,500
\$ 10,000,000	- \$ 15,000,000	= \$31,500
\$ 15,000,000	- \$ 20,000,000	= \$38,500
\$ 20,000,000	- \$ 30,000,000	= \$45,000
\$ 30,000,000	- \$ 40,000,000	= \$50,500
\$ 40,000,000	- \$ 50,000,000	= \$55,500
\$ 50,000,000	- \$ 60,000,000	= \$60,000
\$ 60,000,000	- \$ 70,000,000	= \$64,000
\$ 70,000,000	- \$ 80,000,000	= \$67,500
\$ 80,000,000	- \$ 90,000,000	= \$72,000
\$ 90,000,000	- \$ 100,000,000	= \$75,000

Special Tax Fee Schedule		
\$ 1,000,000	- \$ 5,000,000	= \$30,000
\$ 5,000,000	- \$ 10,000,000	= \$35,000
\$ 10,000,000	- \$ 15,000,000	= \$40,825
\$ 15,000,000	- \$ 20,000,000	= \$46,500
\$ 20,000,000	- \$ 30,000,000	= \$51,250
\$ 30,000,000	- \$ 40,000,000	= \$56,000
\$ 40,000,000	- \$ 50,000,000	= \$61,500
\$ 50,000,000	- \$ 60,000,000	= \$67,000
\$ 60,000,000	- \$ 70,000,000	= \$72,000
\$ 70,000,000	- \$ 80,000,000	= \$78,000
\$ 80,000,000	- \$ 90,000,000	= \$83,575
\$ 90,000,000	- \$ 100,000,000	= \$90,000

General Obligation Fee Schedule		
\$ 1,000,000	- \$ 5,000,000	= \$22,250
\$ 5,000,000	- \$ 10,000,000	= \$33,500
\$ 10,000,000	- \$ 15,000,000	= \$38,500
\$ 15,000,000	- \$ 20,000,000	= \$44,500
\$ 20,000,000	- \$ 30,000,000	= \$50,500
\$ 30,000,000	- \$ 40,000,000	= \$55,500
\$ 40,000,000	- \$ 50,000,000	= \$60,000
\$ 50,000,000	- \$ 60,000,000	= \$65,000
\$ 60,000,000	- \$ 70,000,000	= \$69,500
\$ 70,000,000	- \$ 80,000,000	= \$74,000
\$ 80,000,000	- \$ 90,000,000	= \$78,000
\$ 90,000,000	- \$ 100,000,000	= \$82,500

Private Placement Fee Schedule (\$50,000-\$500,000)	
Enterprise Revenue	\$15,000
GO/COPI/Lease Revenue	\$15,000
Special Tax	N/A

Hourly Rate Fee Schedule	
CEO/President	\$225
Managing Principal	\$195
Principal	\$160
Associate	\$125
Analyst	\$100
Administrative Assistant	\$60



**CITY OF NATIONAL CITY
Office of the City Clerk**

1243 National City Blvd., National City, California 91950
619-336-4228 phone / 619-336-4229 fax

Michael R. Dalla, CMC - City Clerk

January 28, 2014

Mr. Michael Busch
Urban Futures, Inc.
3111 N. Tustin Avenue, Suite 230
Orange, CA 92865

Dear Mr. Busch,

On December 1st, 2013, an Agreement was entered between the Successor Agency to the Community Development Commission as the National City Redevelopment Agency and Urban Futures, Inc.

We are enclosing for your records a fully executed original Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Dalla".

Michael R. Dalla, CMC
City Clerk

Enclosure

cc: Successor Agency

RESOLUTION NO. 2015 – 03

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION AS
THE NATIONAL CITY REDEVELOPMENT AGENCY
RATIFYING AN AGREEMENT WITH URBAN FUTURES, INC.,
FOR FINANCIAL ADVISORY SERVICES FOR THE PERIOD
OF DECEMBER 1, 2013 THROUGH JUNE 30, 2016 FOR
AN AMOUNT NOT TO EXCEED \$50,000

WHEREAS, on December 1, 2013, the City Manager executed an Agreement between the City of National City and Urban Futures, Inc., for financial advisory services for the not to exceed amount of \$50,000; and

WHEREAS, on December 1, 2013, an agreement for financial advisory services between the Successor Agency and Urban Futures, Inc., was also executed; and

WHEREAS, the Agreement between the Successor Agency and Urban Futures included a clause stating that it would require approval of the Oversight Board to the Successor Agency prior to it being effective; and

WHEREAS, financial advisory services from Urban Futures, Inc., have been included and approved on each ROPS that was submitted to the California Department of Finance; and

WHEREAS, said services have been provided by Urban Futures, Inc., in reliance on said Agreement and for which payment has been made by the Successor Agency.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency that the Agreement between the Successor Agency and Urban Futures, Inc., is hereby ratified. PASSED and ADOPTED this 20th day of May, 2015.

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 20th day of May 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Ron Morrison, Chairman

Brad Raulston, Executive Director
Secretary to the Oversight Board

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

MEETING DATE: May 20, 2015

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 approving an Agreement for Legal Services between the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency"), the City of National City ("City"), and the law firm of Mazzarella & Mazzarella, LLP, superseding the prior Agreement for Legal Services between the Successor Agency, City, and Mazzarella Lorenzana, LLP, contingent upon state Department of Finance approval, with no increase in the previously approved not to exceed amount of \$250,000 for hourly fees.

PREPARED BY: Brad Raulston

DEPARTMENT: Successor Agency

PHONE: Ext. 4256

APPROVED BY: 

EXPLANATION:

Pursuant to ABx1 26 and AB1484, the Successor Agency has an obligation to minimize liabilities of its redevelopment agency. In CYAC v CDC, City, et al, the court invalidated the 2007 Redevelopment Plan Amendment and found certain documents were not provided to CYAC. Thereafter, attorneys' fees were awarded to CYAC. As a result of CYAC matter, the City and former CDC approved (November 21, 2011) entering into an agreement with Mazzarella Lorenzana, LLP to pursue various claims against Rosenow Spevacek Group ("RSG") based on and related to the work RSG performed in connection with the 2007 Redevelopment Plan Amendment and approved an amendment (January 31, 2012) increasing the not to exceed amount for the hourly fees up to \$250,000 for the purpose of pursuing the case through trial. The compensation to the firm was a combination of a lower hourly rate for legal fees (\$150/hour) in addition to a contingency fee (no greater than 20%). The firm has changed names and seeks to enter into a new agreement to reflect the name change, reflect the current Successor Agency name in place of what was formerly the Community Development Commission, and confirm the compensation structure of the reduced hourly rate of \$150 per hour with a not to exceed amount of \$250,000 (no increase from the original amount) in addition to a reduced contingency fee of up to 20%.

FINANCIAL STATEMENT:

APPROVED: _____ Finance

ACCOUNT NO.

APPROVED: _____ MIS

N/A

ENVIRONMENTAL REVIEW:

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

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt proposed resolution.

BOARD / COMMISSION RECOMMENDATION:

Successor Agency: Adopt the Resolution.

ATTACHMENTS:

Agreement for Legal Services with Mazzarella & Mazzarella
Proposed resolution

**AGREEMENT FOR LEGAL SERVICES
BY AND BETWEEN
THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY, THE CITY OF NATIONAL
CITY, AND MAZZARELLA & MAZZARELLA, LLP FOR LEGAL SERVICES
RELATED TO CLAIMS AGAINST THE ROSENOW SPEVACEK GROUP**

THIS AGREEMENT FOR LEGAL SERVICES (the "Agreement") is made between THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY, a public body, corporate and politic, (the "SA"), THE CITY OF NATIONAL CITY, a municipal corporation, (the "CITY"), (collectively, "Clients"), and MAZZARELLA & MAZZARELLA, LLP, (the "FIRM"), effective upon approval by the Oversight Board and California Department of Finance, and upon being effective supersedes and replaces the Agreement for Legal Services executed on November 21, 2011, as amended by Resolution 2012-31 on January 31, 2012. This Agreement sets forth the parties' mutual understanding concerning legal services to be provided by the FIRM and the fee arrangement for said services.

Article 1. Retainer. The Clients hereby retain the FIRM to assist in representing the Clients in connection with their dispute with Rosenow Spevacek Group ("RSG") arising from RSG's failure to meet its obligations pursuant to its February 20, 2007 contract to provide consulting services. The SA is currently facing a liability of approximately two-million dollars due to the award of attorneys fees in the matter of CYAC v. CDC, et al. (SDSC Case No. 37-2007-00076404-CU-EI-CTL), which was a matter based on the former Community Development Commission's 2007 Redevelopment Plan Amendment. The underlying CYAC suit was based on and all related to the adoption of a redevelopment plan amendment to allow the former Community Development Commission to continue exercising its redevelopment functions, including extension of the eminent domain authority conferred upon redevelopment agencies.

Pursuant to ABx1 26 and AB1484 legislation, the SA has an obligation to minimize liabilities of its redevelopment agency. 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. The purpose of this engagement is to pursue indemnity claims and other theories of recovery to minimize or eliminate the pending liability described herein as well as other damages as a result of RSG's work. The attorneys with primary responsibility in this matter are Mark C. Mazzarella and Daral Mazzarella.

Article 2. Scope of Services. Clients shall have the right in its sole discretion to determine the particular services to be performed by the FIRM under this Agreement. It is expected that the FIRM will work with the City Attorney, SA General Counsel, CITY and SA staff.

Article 3. Compensation. The FIRM will be compensated by a blend of discounted hourly fees and contingency fees. The hourly component of the FIRM's Hourly Fees shall be paid at the following rate:

Attorneys: \$150.00 per hour

Paralegals \$ 50.00 per hour

In addition to the Hourly Fees due the FIRM, the FIRM shall be entitled to a contingency fee at percentages which reflect approximately 50% of the contingency fee normally charged by the FIRM. The contingency fee is not set by law, but is negotiable.

If no recovery is obtained for the Clients in this case, Clients shall owe no contingency fee to the FIRM, but the SA shall pay the costs and expenses as well as the hourly component of the FIRM's fee. If any recovery is obtained for the Clients in this case, whether by way of settlement, judgment or otherwise, SA agrees to pay the FIRM 12.5% of the "amount recovered" if the case is resolved prior to the selection of the arbitrators, and 16.5% of the amount recovered thereafter until 60 days before the first date the matter is set for arbitration, and 20% thereafter through the end of arbitration. Compensation for any appeal shall be negotiated and agreed upon separate from this Agreement.

The "amount recovered" shall equal the total gross amount actually paid by or recovered from adverse parties for the benefit of SA, including amounts received as a result of settlement, award, or judgment, before and reduction for costs, or expenses, liens and/or payments due to third parties. If payment of all or any part of the amount to be received will be deferred (such as in the case of any annuity, a structured settlement, or periodic payments), the "amount recovered", for purposes of this Agreement, will be any initial lump sum payment plus the present value at the time of settlement of the payment to be received or the cost to the defendant of purchasing the annuity or deferred payment asset. The full attorney's fees due to the FIRM will be paid out of the initial lump sum payment. If the initial lump sum payment is insufficient to pay the FIRM's fees in full, the balance will be paid from subsequent payments of the recovery before any distribution to SA.

Any award of attorney's fees made by the court and recovered from the adverse parties for benefit of the Clients will be treated the same as any other amount recovered.

All costs of the suit, including those described in the following paragraph, which the SA has not previously paid, will be paid to the FIRM entirely from SA's share of any recovery.

If no recovery is obtained for SA by way of any settlement or after trial or arbitration, then no contingency attorney's fees will be charged to SA, and SA will be responsible only for the payment of hourly component of the FIRM's compensation.

Article 4. The following provisions and procedures shall be followed by the FIRM:

A. The FIRM shall not use more than one attorney for the same specific task without Client's approval. The FIRM may use the minimum number of attorneys for this

engagement consistent with good professional practice after consulting with and obtaining approval by Clients.

B. The SA has appropriated or otherwise duly authorized the payment of an amount not to exceed \$250,000 for Hourly Fees and out-of-pocket disbursements pursuant to this Agreement. In no event shall the total Hourly Fees plus out-of-pocket disbursements exceed this amount without written authorization of the SA.

C. The FIRM shall keep the Clients advised monthly as to the level of attorney hours and client services performed under Article 1. The FIRM will not charge the SA for travel time; however, the FIRM may charge for work performed for the SA during any travel time.

D. The SA further agrees to reimburse the FIRM, in accordance with the procedures set forth in this Article, for telephone, fax, mail, messengers, federal express deliveries, document reproduction, client-requested clerical overtime, lodging, and similar out-of-pocket expenses charged by the FIRM as a standard practice to its clients generally, with the exception of travel and meals. In any billing for disbursements, the FIRM shall provide the SA with a statement breaking down the amounts by category of expense. The following items shall not be reimbursed, unless the SA has specifically agreed otherwise:

- (1) Word processing, clerical, or secretarial charges, whether expressed as a dollar disbursement or time charge;
- (2) Secretarial overtime;
- (3) Storage of open or closed files, rent, electricity, local telephone, postage, receipts or transmission of telecopier documents, or any other items traditionally associated with overhead;
- (4) Photocopy charges in excess of \$.15 (fifteen cents) per page;
- (5) Auto mileage rates in excess of the rate approved by the Internal Revenue Service for income tax purposes;
- (6) Equipment, books, periodicals, research materials, Westlaw/Lexis, or like items;
- (7) Express charges, overnight mail charges, messenger services, or the like, without Clients' prior consent. Clients expect these expenses to be incurred in emergency situations only. Where case necessity requires the use of these services, Clients will consider reimbursement on a case-by-case basis;
- (8) Travel and meals; and
- (9) Late payment charge and/or interest. Due to the nature of SA's payment process, SA will not pay any late charges or interest charges on bills. Every effort will be made to pay bills promptly.

E. Bills from the FIRM should be submitted to Claudia Silva, City Attorney, City of National City, 1243 National City Boulevard, National City, CA 91950-4301. The individual time and disbursement records customarily maintained by the FIRM for billing evaluation and review purposes shall be made available to the SA in support of bills rendered by the FIRM.

F. The FIRM agrees to forward to the SA a statement of account for each one-month period of services under this Agreement, and the SA agrees to compensate the FIRM on this basis. The FIRM will consult monthly with the CDC as to the number of attorney hours and client out-of-pocket disbursements which have been incurred to date under this Agreement, and as to future expected levels of hours and disbursements.

G. Billing Format. Each billing entry must be complete, discrete and appropriate.

(1) Complete.

(a) Each entry must name the person or persons involved. For instance, telephone calls must include the names of all participants.

(b) The date the work was performed must be included.

(c) The hours should be billed in .10 hour increments.

(d) The specific task performed should be described, and the related work product should be reference ("telephone call re: trial brief," "interview in preparation for deposition").

(e) The biller's professional capacity (partner, associate, paralegal, etc.) should be included

(2) Discrete: Each task must be set out as a discrete billing entry; neither narrative nor block billing is acceptable.

(3) Appropriate:

The SA does not pay for clerical support, administrative costs, overhead costs, outside expenses or excessive expenses. For example, the SA will not pay for secretarial time, word processing time, air conditioning, rental of equipment, including computers, meals served at meetings, postage, online research, or the overhead costs of sending or receiving faxes. Neither will the SA pay for outside expenses such as messenger delivery fees, outside photocopying, videotaping of depositions, investigative services, outside computer litigation support services, or overnight mail.

H. Staffing. Every legal matter should have a primarily responsible attorney and a paralegal assigned. Ultimately, staffing is an SA decision, and the SA's representative may review staffing to insure that it is optimal to achieve the goals of the engagement at the least cost.

(1) Paralegals are to be used to the maximum extent possible to enhance efficiency and cost-effectiveness. All tasks typically considered associate work should be considered for assignment to a paralegal. Written authorization from the SA must be had before associate hours billed exceed paralegal hours billed.

(2) Once an attorney is given primary responsibility for an engagement, that person should continue on the legal matter until the matter is concluded or the attorney leaves the FIRM. The SA will not pay the costs of bringing a new attorney up to speed.

(3) If more than one attorney is going to perform the same task, prior approval from the SA must be had. This includes document review.

Article 5. Independent Contractor. The FIRM shall perform services as an independent contractor. It is understood that this contract is for unique professional services. Accordingly, the duties specified in this Agreement may not be assigned or delegated by the FIRM without prior written consent of the SA. Retention of the FIRM is based on the particular professional expertise of the individuals rendering the services required in the Scope of Services.

Article 6. Confidentiality of Work. All work performed by the FIRM including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the FIRM pursuant to this Agreement is for the sole use of the Clients. All such work product shall be confidential and not released to any third party without the prior written consent of the Clients.

Article 7. Compliance with Controlling Law. The FIRM shall comply with all applicable laws, ordinances, regulations, and policies of the federal, state, and local governments as they pertain to this Agreement. In addition, the FIRM shall comply immediately with any and all directives issued by the Clients or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

Article 8. Acceptability of Work. The Clients shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the FIRM and the Clients cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the FIRM in this Agreement, the Clients or the FIRM shall give to the other written notice. Within ten (10) business days, the FIRM and the Clients shall each prepare a report which supports their position and file the same with the other party. The Clients shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the FIRM.

Article 9. Indemnification. The FIRM agrees to indemnify and hold the Clients, and their agents, officers, and employees harmless from and against all claims asserted or liability established for damages or injuries to any person or property, including injury to the FIRM's employees, agents, or officers, which arise from or are connected with or caused or claimed to be caused by the acts or omissions of the FIRM and its agents, officers, or employees in performing the work or other obligations under this Agreement, and all expenses of investigating and defending against same; provided, however, that this indemnification and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the SA, the CITY, their agents, officers, or employees.

Article 10. Insurance. The FIRM shall not commence work under this Agreement until it has obtained all insurance required in this Article with a company or companies acceptable to the Clients. At its sole cost and expense, the FIRM shall take and maintain in full force and effect at all times during the term of this Agreement the following policies of insurance:

A. Commercial general liability insurance with a combined single limit of not less than one million dollars (\$1,000,000).

B. For all of the FIRM's employees that are subject to this Agreement, to the extent required by the State of California, Workers' Compensation Insurance in the amount required by law.

C. Errors and omissions insurance in an amount not less than one million dollars (\$1,000,000) per claim.

D. All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California. The policies carried pursuant to paragraph 10.A above shall name as additional insureds the Clients and their elected officials, officers, employees, agents, and representatives. All policies shall contain language, to the extent obtainable, to the effect that: (1) the insurer waives the right of subrogation against the Clients and their elected officials, officers, employees, agents, and representatives; (2) the policies are primary and not contributing with any insurance that may be carried by the Clients; and (3) the policies cannot be cancelled or materially changed except after thirty (30) days' notice by the insurer to the Clients by certified mail. Before this Agreement shall take effect, the FIRM shall furnish the Clients with copies of all such policies upon receipt of them, or a certificate evidencing such insurance. The FIRM may effect for its own account insurance not required under this Agreement.

Article 11. Drug Free Work Place. The FIRM agrees to comply with the Clients' Drug-Free Workplace requirements. Every person awarded a contract by the Clients for the provision of services shall certify to the Clients that it will provide a drug-free workplace. Any subcontract entered into by the FIRM pursuant to this Agreement shall contain this provision.

Article 12. Non-Discrimination Provisions. The FIRM shall not discriminate against any subcontractor, vendor, employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The FIRM will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The FIRM agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the Clients setting forth the provisions of this non-discrimination clause.

Article 13. Effective Date and Term. This Agreement shall be effective upon approval by the Oversight Board and California Department of Finance, and will continue until written notice of cancellation. This Agreement may be terminated at any time by either party with sixty (60) days' written notice to the other. Notice of termination by the Firm shall be given to the City Attorney.

Article 14. Notification of Change in Form. The FIRM has the right to effect changes in form including but not limited to: the change in form from a partnership to a professional law corporation; the change in form of any partner or partners from an individual or individuals to a professional law corporation; the change in form of any corporate partner or partners to any individual partners. The CDC shall be promptly notified in writing of any change in form.

Article 15. Notices. In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage paid. When so given, such notice shall be effective from the date of mailing of the

notice. Unless otherwise provided by notice in writing from the respective parties, notice to the Agency shall be addressed to:

Claudia Gacitua Silva
City Attorney
City of National City
1243 National City Boulevard
National City, CA 91950-4301

Notice to the FIRM shall be addressed to:

Mark C. Mazzarella, Esq.
Mazzarella & Mazzarella, LLP
1620 Fifth Avenue, Suite 600
San Diego, CA 92101

Nothing contained in this agreement shall preclude or render inoperative service or such notice in the manner provided by law.

Article 16. Headings. All article headings are for convenience only and shall not affect the construction or interpretation of this Agreement.

Article 17. Miscellaneous Provisions.

A. **Time of Essence.** Time is of the essence for each provision of this Agreement.

B. **California Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of California. The FIRM covenants and agrees to submit to the personal jurisdiction of any state court in the State of California for any dispute, claim, or matter arising out of or related to this Agreement.

C. **Integrated Agreement.** This Agreement, including attachments and/or exhibits, contains all of the agreements of the parties and all prior negotiations and agreements are merged in this Agreement. This Agreement cannot be amended or modified except by written agreement, and mutually agreed upon by the Clients and the FIRM.

D. **Severability.** The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.

E. **Waiver.** The failure of the Clients to enforce a particular condition or provision of this Agreement shall not constitute a waiver of that condition or provision or its enforceability.

F. **Conflict of Interest.** During the term of this Agreement, the FIRM shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the Clients. This prohibition shall not preclude the Clients from expressly agreeing to a waiver of a potential conflict of interest under certain circumstances.

G. **No Obligations to Third Parties.** Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

H. Construction. The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, and (iii) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the _____ day of _____, 2015.

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

By: J.C. for
Ron Morrison, Chairman

MAZZARELLA & MAZZARELLA, LLP

By: [Signature]
Mark Mazzarella, Esq.

APPROVED AS TO FORM:

By: [Signature]
Claudia Gacitua Silva
SA General Counsel

CITY OF NATIONAL CITY

By: J.C. for
Ron Morrison, Mayor

APPROVED AS TO FORM:

By: [Signature]
Claudia Gacitua Silva
City Attorney

RESOLUTION NO. 2015 – 04

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY APPROVING AN 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 THE LAW FIRM OF MAZZARELLA & MAZZARELLA, LLP, SUPERSEDING THE PRIOR AGREEMENT FOR LEGAL SERVICES BETWEEN THE SUCCESSOR AGENCY AND CITY, AND MAZZARELLA LORENZANA, LLP, CONTINGENT UPON DEPARTMENT OF FINANCE APPROVAL, WITH NO INCREASE IN THE PREVIOUSLY APPROVED NOT TO EXCEED AMOUNT OF \$250,000 FOR HOURLY FEES

WHEREAS, the City of National City ("City") and the now dissolved Community Development Commission as the National City Redevelopment Agency ("CDC"), entered into an Agreement for Legal Services with Mazzarella Lorenzana, LLP, effective November 21, 2011 ("2011 Agreement") for the not to exceed amount of \$50,000 to pursue various claims against Rosenow Spevacek Group ("RSG") based on and related to the work RSG performed in connection with the 2007 Redevelopment Plan Amendment; and

WHEREAS, pursuant to ABx1 26 and AB1484, each "Successor Agency" has an obligation to minimize liabilities of its redevelopment agency; and

WHEREAS, per a November 21, 2011 agreement with Mazzarella Lorenzana, LLP (the "2011 Agreement"), compensation to that firm was a combination of a lower hourly rate for legal fees (\$150/hour) in addition to a contingency fee (no greater than 20%), with a not to exceed amount of \$50,000.00; and

WHEREAS, on January 21, 2012, the City Council adopted Resolution No. 2012-31 approving a First Amendment to the 2011 Agreement to increase the not to exceed amount by \$200,000 (the "First Amendment"), for a total not to exceed amount of \$250,000; and

WHEREAS, Mazzarella Lorenzana, LLP has changed its name, and seeks to enter into a new Agreement for Legal Services to reflect its name change to Mazzarella & Mazzarella, LLP, and to reflect the name of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency") name in place of the dissolved CDC, and confirm the compensation structure of the reduced hourly rate of \$150 per hour with a not to exceed amount of \$250,000 (no increase from the original amount) in addition to confirming the reduced contingency fee of up to 20%.

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

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

Section 2. The Oversight Board hereby approves the Agreement for Legal Services between the Successor Agency and the City, and the Law Firm of Mazzarella & Mazzarella, LLP, superseding the prior Agreement for Legal Services between the Successor Agency and City, and Mazzarella Lorenzana, LLP, contingent upon State Department of Finance approval, with no increase in the previously approved not to exceed amount of \$250,000 for hourly fees;

Section 3. The Executive Director of the Successor Agency, or designee, is hereby authorized and directed to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Oversight Board;

Section 4. The Oversight Board concurs with the Successor Agency's determination that approval of this Resolution does not represent a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.

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

Section 6. Pursuant to California Health and Safety Code Section 34179(h), the State of California Department of Finance may review Oversight Board action; therefore, this Resolution shall be effective on the date five (5) business days after its adoption, absent and pending any request for review by the State of California Department of Finance.

PASSED and ADOPTED this 20th day of May, 2015.

- - - Signature Page to Follow - - -

Resolution No. 2015 – 04
May 20, 2015
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 20th day of May 2015, 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: May 20, 2015

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 approving an administrative budget for the ROPS 14-15B period (January 1, 2015 through June 30, 2015).

PREPARED BY: Brad Raulston, Executive Director **DEPARTMENT:** Successor Agency
PHONE: 619 336-4256

APPROVED BY: 

EXPLANATION:

Health and Safety Code section 34177(j) requires the Successor Agency to prepare a proposed administrative budget for each ROPS period and submit it to the Oversight Board for approval. The proposed administrative budget is to include estimated amounts for Successor Agency administrative costs for the upcoming six-month period, the proposed sources of payment for those costs, and proposals for arrangements for administrative and operations services. The estimated administrative costs for the Recognized Obligation Payment Schedule (ROPS) 14-15B period total \$268,743, \$208,743 of which is funded by the administrative cost allowance and \$60,000 by other Successor Agency revenue such as interest payments and rental income. Administrative and operations services are provided through a combination of City staff and outside contractors. See attached table for the details.

The Successor Agency Board reviewed and approved the ROPS 14-15B administrative budget on April 7, 2015 and requests approval by the Oversight Board.

FINANCIAL STATEMENT:

APPROVED:  Finance

ACCOUNT NO.

APPROVED: _____ MIS

The administrative budget totals \$268,743 for the ROPS 14-15B period.

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:

Successor Agency Board: Adopt the Resolution

ATTACHMENTS:

1. ROPS 14-15B Proposed Administrative Budget for the Successor Agency
2. OB Resolution 2015-

**Successor Agency to the Community Development Commission
as the National City Redevelopment Agency**

ROPS 14-15B Administrative Budget

Expenditures

Personnel*	Annual Salaries & Benefits	% Allocated	Annual Cost	Six Month Cost ROPS 14-15B
Executive Director	194,600	40%	77,840	38,920
Executive Secretary	64,100	75%	48,075	24,038
City Manager	244,000	15%	36,600	18,300
Executive Assistant	85,800	5%	4,290	2,145
City Attorney	263,500	15%	39,525	19,763
Executive Assistant	81,300	5%	4,065	2,033
City Clerk/Records Management Officer	136,800	15%	20,520	10,260
Administrative Secretary	69,700	10%	6,970	3,485
Property Agent	87,000	50%	43,500	21,750
Director of Finance	170,300	5%	8,515	4,258
Financial Services Officer	120,500	10%	12,050	6,025
Management Analyst	99,000	10%	9,900	4,950
Financial Analyst (part time)	40,000	90%	36,000	18,000
Senior Accountant	89,600	10%	8,960	4,480
Accountant	68,900	5%	3,445	1,723
Accountant	73,500	10%	7,350	3,675
Buyer	68,500	5%	3,425	1,713
Accounting Assistant	57,500	5%	2,875	1,438
Accounting Assistant	55,100	5%	2,755	1,378
Accounting Assistant	57,600	5%	2,880	1,440
Accounting Assistant	51,800	5%	2,590	1,295
Total Personnel			382,130	191,065
Maintenance & Operations				
Contract Services - Legal Services for Successor Agency				10,000
Contract Services - Legal Services for Oversight Board				10,000
Contract Services - Accounting/Audit Support				12,000
Other Operating Expenditures				45,678
Total M&O				77,678
Total Expenditures				268,743
Funding Sources				
Administrative Allowance				208,743
Other Revenues				60,000
Total Funding				268,743

* Personnel responsibilities include, but are not limited to, providing executive direction and legal guidance for the operations of the SA, scheduling and maintaining records of the meetings of the Successor Agency and the Oversight Board, preparing agenda materials for the SA and the Oversight Board, managing litigation, developing the ROPS for each six-month period, projecting and managing the cash flow of the SA, developing and implementing a long range property management plan, managing contracts with vendors, managing the payments to vendors, accounting for all transactions of the SA in the general ledger, and preparing annual financial statements.

RESOLUTION NO. 2015 – 05

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
APPROVING AN ADMINISTRATIVE BUDGET FOR THE ROPS 14-15B PERIOD
(JANUARY 1, 2015 THROUGH JUNE 30, 2015)

WHEREAS, the Oversight Board ("Oversight Board") of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency") has been established to take certain actions to wind down the affairs of the now dissolved Community Development Commission as the National City Redevelopment Agency ("CDC") in accord with AB 26, as amended in AB 1484; and

WHEREAS, Health and Safety Code section 34177(j) requires that each Successor Agency prepare a proposed administrative budget for each upcoming six-month period and submit it to its oversight board for its approval; and

WHEREAS, such an administrative budget is to include estimated amounts for successor agency administrative costs, the proposed sources of payment, and proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity; and

WHEREAS, on April 7, 2015, the Successor Agency's Executive Director submitted to its Board a proposed administrative budget for the Recognized Obligation Payment Schedule ("ROPS") 14-15B period, and said budget has been discussed, deliberated upon, and approved in public session, for submission to the Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Oversight Board"); and

WHEREAS, on May 20, 2015, the Oversight Board reviewed said administrative budget and determined that it meets the statutory requirement.

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

Section 1. The administrative budget for ROPS 14-15B period, beginning January 1, 2015 and continuing through and including June 30, 2015, with expenditures totaling \$268,743.00 and attached hereto and incorporated by this reference herein as Exhibit A (the "Administrative Budget"), is hereby approved.

Section 2. The Executive Director of the Successor Agency and his designees are hereby authorized and directed to evaluate and execute necessary changes to the Administrative Budget as may be appropriate and/or as required by law, whether pursuant to statute, by court order or as otherwise required or authorized by law, to capture all the costs the Successor Agency may have in the performance of its duties.

Section 3. The Executive Director of the Successor Agency, or designee, is hereby authorized and directed to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Oversight Board, such actions to include but not limited to posting and distributing the Administrative Budget as may be required by law.

Section 4. The Oversight Board concurs with the Successor Agency's determination that approval of this Resolution does not represent a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.

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

Section 6. Pursuant to California Health and Safety Code Section 34179(h), the State of California Department of Finance may review Oversight Board action; therefore, this Resolution shall be effective on the date five (5) business days after its adoption, absent and pending any request for review by the State of California Department of Finance.

PASSED and ADOPTED this 20th day of May, 2015.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Ron Morrison, Chairman

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: May 20, 2015

AGENDA ITEM NO. 5

ITEM TITLE: Resolution of the Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency authorizing the Chairman to execute a Second Amendment to the Agreement for legal services with Opper & Varco, LLP, for continued legal work regarding environmental remediation, underground storage tanks, and environmental matters related to Successor Agency-owned properties and Successor Agency obligations, and to increase the not to exceed amount by \$80,000, for a total not to exceed amount of \$130,000.

PREPARED BY: Brad Raulston
PHONE: Ext. 4256

DEPARTMENT: Successor Agency
APPROVED BY: 

EXPLANATION:

The CDC and Opper & Varco entered into an Agreement on October 3, 2011, for the not to exceed amount of \$13,000 wherein Opper & Varco agreed to assist in representing the CDC in connection with redevelopment and environmental issues.

On February 26, 2013, the Successor Agency and Opper & Varco entered into the First Amendment to the Agreement increasing the not-to-exceed amount by \$37,000, for a total not to exceed amount of \$50,000 for continuing legal services.

There is a continuing need for assistance to address environmental matters for both Successor Agency owned property or Successor Agency obligations, thus, the parties desire to enter into a Second Amendment to the Agreement to increase the not-to-exceed amount by \$80,000 for a total Agreement amount of \$130,000.

FINANCIAL STATEMENT:

ACCOUNT NO.

Funds are budgeted in Account No. 001-499-500-598-3934

APPROVED: _____ **Finance**
APPROVED: _____ **MIS**

ENVIRONMENTAL REVIEW:

N/A

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt proposed resolution.

BOARD / COMMISSION RECOMMENDATION:

N/A

ATTACHMENTS:

1. Proposed Second Amendment to the Agreement
2. Proposed OB resolution

**SECOND AMENDMENT TO AGREEMENT
BY AND BETWEEN
THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AND
OPPER AND VARCO, LLP**

This Second Amendment to Agreement is entered into this 19th day of May, 2015, by and between the SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY, a California public entity, ("SUCCESSOR AGENCY"), and OPFER AND VARCO, LLP, ("FIRM").

RECITALS

WHEREAS, COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF NATIONAL CITY ("CDC") and FIRM (the "Parties") entered into an Agreement on October 3, 2011, ("the Agreement") wherein the FIRM agreed to assist in representing the CDC in connection with redevelopment and environmental issues for the not to exceed amount of \$13,000; and

WHEREAS, 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; and

WHEREAS, on February 26, 2013, the SUCCESSOR AGENCY and the FIRM entered into the First Amendment to the Agreement to increase the not to exceed amount by \$37,000, for a total not-to-exceed amount of \$50,000 for continued legal services for non-owned properties; and

WHEREAS, because the Successor Agency has a continuing need for environmental legal work, the Parties desire to amend the Agreement to include more specifically in the scope of work environmental remediation and underground storage tanks for Successor Agency-owned properties, and existing Successor Agency environmental obligations for non-owned properties; and

WHEREAS, the Agreement allows the Successor Agency to determine the scope of work; and

WHEREAS, this continuing environmental legal work requires an increase to the not-to-exceed amount of the Agreement by \$80,000, for a total not-to-exceed amount of \$130,000; and

WHEREAS, this obligation is listed on the Recognized Obligations Payments Schedule, which has been approved by the California Department of Finance; and

WHEREAS, this Second Amendment will require approval of the Oversight Board to the Successor Agency, as well as the California Department of Finance prior to being effective.

AGREEMENT

NOW, THEREFORE, the SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY, and OPPER AND VARCO, LLP, hereto agree that the Agreement entered into on October 3, 2011, shall be amended as follows:

- A. Article 2 (Scope of Services) shall be amended to add more specifically environmental remediation, and underground storage tanks generally for Successor Agency-owned properties and Successor Agency environmental obligations.
- B. Article 3 (Compensation), Section C of the Agreement shall be amended to increase the not-to-exceed amount by \$80,000, for a total not-to-exceed amount of \$130,000.

The parties further agree that with the foregoing exception, each and every term and provision of the Agreement dated October 3, 2011, and First Amendment dated February 26, 2013, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second 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**

OPPER AND VARCO, LLP

By: _____
Leslie Deese
Executive Director

By: _____
Richard Opper, Partner

APPROVED AS TO FORM:

By: _____
Claudia Gacitua Silva
Successor Agency Counsel

RESOLUTION NO. 2015 – 06

RESOLUTION OF THE BOARD OF THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AUTHORIZING THE CHAIRMAN TO EXECUTE A SECOND AMENDMENT TO THE
AGREEMENT FOR LEGAL SERVICES WITH OPPER & VARCO, LLP, FOR
CONTINUED LEGAL WORK REGARDING ENVIRONMENTAL REMEDIATION,
UNDERGROUND STORAGE TANKS, AND ENVIRONMENTAL MATTERS RELATED
TO SUCCESSOR AGENCY-OWNED PROPERTIES AND SUCCESSOR AGENCY
OBLIGATIONS, AND TO INCREASE THE NOT TO EXCEED AMOUNT BY \$80,000,
FOR A TOTAL NOT TO EXCEED AMOUNT OF \$130,000

WHEREAS, on October 3, 2011, the Community Development Commission of the City of National City ("CDC") and the law firm Opper & Varco, LLP ("Firm"), entered into an Agreement on October 3, 2011, ("Agreement") whereby the Firm agreed to represent the CDC in connection with redevelopment and environmental issues and provide services with a value not to exceed amount of \$13,000; and

WHEREAS, on February 1, 2012, all California redevelopment agencies, including the CDC were dissolved, and the law established "successor agencies" tasked with paying, performing, and enforcing the enforceable obligations of the former redevelopment agencies, including but not limited to contracts such as the Agreement with the Firm; and

WHEREAS, on February 26, 2013, the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Successor Agency") and the Firm entered into the first amendment to the Agreement to increase the not to exceed amount by \$37,000, for a total not-to-exceed amount of \$50,000, whereby the Firm would continue to provide legal services; and

WHEREAS, the Successor Agency has a continuing need for environmental legal work, and the Successor Agency and Firm desire to include more specifically in the scope of work, environmental remediation, underground storage tanks for Successor Agency-owned properties, and environmental obligations of the Successor Agency; and

WHEREAS, the Agreement provides that the Successor Agency determines the scope of the Firm's work thereunder; and

WHEREAS, the changes to the scope of work desired by the Successor Agency require approval and execution of a second amendment to the Agreement incorporating an increase to the not-to-exceed amount of the Agreement by \$80,000, for a total not-to-exceed amount of \$130,000 ("Second Amendment"); and

WHEREAS, the Firm's Agreement with the Firm as amended to date has been listed on the Successor Agency's Recognized Obligations Payments Schedule, and has been approved by the California Department of Finance as such; and

WHEREAS, on May 19, 2015, the Successor Agency adopted Resolution No. 2015-____ approving the Second Amendment; and

WHEREAS, the Second Amendment must also be approved by the Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Oversight Board") prior to being effective; and

WHEREAS, on May 20, 2015, in the course of taking action on an properly agendized item at a regular meeting, the Oversight Board considered the approval of the Second Amendment, and upon (i) further consideration of all information and documentation presented by staff, (ii) all public comment and Oversight Board deliberation, if any, and (iii) the recommendation of the Successor Agency's staff, did independently find and determine that the Second Amendment should be approved.

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

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

Section 2. The Oversight Board hereby approves the Second Amendment to the Agreement between the Successor Agency to the Community Development Commission as the National City Redevelopment Agency and the law firm of Opper & Varco, LLP, a true and correct copy of which is on file in the office of the City Clerk of the City of National City, contingent upon State Department of Finance approval, inclusive of an increase in the previously approved not-to-exceed amount of \$80,000 to a new amount of \$130,000;

Section 3. The Chairman of the Successor Agency, or his designee, is hereby authorized and directed to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Oversight Board;

Section 4. The Oversight Board concurs with the Successor Agency's determination that approval of this Resolution does not represent a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.

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

Section 6. Pursuant to California Health and Safety Code Section 34179(h), the State of California Department of Finance may review Oversight Board action; therefore, this Resolution shall be effective on the date five (5) business days after its adoption, absent and pending any request for review by the State of California Department of Finance.

PASSED and ADOPTED this 20th day of May, 2015.

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