

**AGENDA OF A REGULAR MEETING - SUCCESSOR AGENCY TO THE  
COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY  
REDEVELOPMENT AGENCY**



**COUNCIL CHAMBERS  
CIVIC CENTER  
1243 National City Blvd.  
National City, California**

**TUESDAY, OCTOBER 20, 2015 – 6:00 PM**

**RON MORRISON**  
*Chairman*

**JERRY CANO**  
*Boardmember*

**ALBERT MENDIVIL**  
*Boardmember*

**MONA RIOS**  
*Boardmember*

**ALEJANDRA SOTELO-SOLIS**  
*Boardmember*

**1243 National City Blvd.  
National City  
619-336-4240**

**Meeting agendas and  
minutes available on web**

**WWW.NATIONALCITYCA.GOV**

**ORDER OF BUSINESS:** Public sessions of all Regular Meetings of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency begin at 6:00 p.m. on the first and third Tuesday of each month. Public hearings begin at 6:00 p.m. unless otherwise noted. Closed Sessions begin at 5:00 p.m. or such other time as noted on the agenda. If a workshop is scheduled, the subject and time of the workshop will appear on the agenda.

**REPORTS:** All regular meeting agenda items and reports as well as all documents and writings distributed to the Board less than 72 hours prior to the meeting, are available for review at the entry to the Council Chambers. Regular Meetings of the Board are webcast and archived on the City's website [www.nationalcityca.gov](http://www.nationalcityca.gov).

**PUBLIC COMMENTS:** Prior to the Business portion of the agenda, the Board will receive public comments regarding any matters within the jurisdiction of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency. Members of the public may also address any item on the agenda at the time the item is considered by the Board. Persons who wish to address the Board are requested to fill out a "Request to Speak" form available at the entrance to the City Council Chambers, and turn in the completed form to the City Clerk. The Chairperson will separately call for testimony of those persons who have turned in a "Request to Speak" form. If you wish to speak, please step to the podium at the appropriate time and state your name and address (optional) for the record. The time limit established for public testimony is three minutes per speaker unless a different time limit is announced. Speakers are encouraged to be brief. The Chairperson may limit the length of comments due to the number of persons wishing to speak or if comments become repetitious or irrelevant.

**WRITTEN AGENDA:** With limited exceptions, the Board may take action only upon items appearing on the written agenda. Items not appearing on the agenda must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature, and the need to take action on such items arose after the agenda was posted.

**CONSENT AGENDA:** Consent calendar items involve matters which are of a routine or noncontroversial nature. All consent items are adopted by approval of a single motion by the City Council. Prior to such approval, any item may be removed from the consent portion of the agenda and separately considered, upon request of a Councilmember, a staff member, or a member of the public.

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.

*Spanish audio interpretation is provided during Board Meetings. Audio headphones are available in the lobby at the beginning of the meeting.*

*Audio interpretación en español se proporciona durante sesiones del Consejo Municipal. Los audiófonos están disponibles en el pasillo al principio de la junta.*

**THE BOARD REQUESTS THAT ALL CELL PHONES AND PAGERS BE TURNED OFF DURING BOARD MEETINGS.**

**OPEN TO THE PUBLIC**  
**SUCCESSOR AGENCY AGENDA**

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMENTS (THREE-MINUTE TIME LIMIT)**

**CONSENT CALENDAR**

1. [Approval of the Minutes of the Regular Meeting of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency of October 6, 2015. \(City Clerk\)](#)
2. [Investment transactions for the month ended August 31, 2015. \(Finance\)](#)
3. [Successor Agency Warrant Register #9 for the period of 08/26/15 through 09/01/15 in the amount of \\$7,432.50. \(Finance\)](#)
4. [Successor Agency Warrant Register #10 for the period of 09/02/15 through 09/08/15 in the amount of \\$1,043.83. \(Finance\)](#)
5. [Resolution of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency authorizing the Chairman to execute a Memorandum of Understanding between the Successor Agency and the City of National City regarding the distribution of anticipated settlement proceeds from the RSG Arbitration matter. \(City Attorney\)](#)

**PUBLIC HEARINGS**

**NON CONSENT RESOLUTIONS**

**NEW BUSINESS**

**STAFF REPORTS**

**MEMBER REPORTS**

**CLOSED SESSION REPORT**

**ADJOURNMENT**

Regular Meeting of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency - Tuesday -

November 3, 2015 - 6:00 p.m. - Council Chambers - National City,  
California

The following page(s) contain the backup material for Agenda Item: Approval of the Minutes of the Regular Meeting of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency of October 6, 2015. (City Clerk)

**Item #\_\_\_\_**  
**10/20/15**

**APPROVAL OF THE MINUTES OF THE REGULAR  
MEETING OF THE SUCCESSOR AGENCY TO THE  
COMMUNITY DEVELOPMENT COMMISSION  
AS THE NATIONAL CITY REDEVELOPMENT  
AGENCY OF OCTOBER 6, 2015.**

(City Clerk)

DRAFT      DRAFT      DRAFT

**MINUTES OF THE REGULAR MEETING OF THE  
SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT  
COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY**

**October 6, 2015**

The Regular Meeting of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency was called to order at 9:42 p.m. by Chairman Ron Morrison.

**ROLL CALL**

Board members present: Cano, Mendivil, Morrison, Rios, Sotelo-Solis.  
Administrative Officials present: Dalla, Deese, Raulston, Silva.

**PUBLIC COMMENTS**

None.

**CONSENT CALENDAR**

**ADOPTION OF CONSENT CALENDAR.** Item No. 1 (Minutes), Item Nos. 2 and 3 (Warrant Registers). Motion by Rios, seconded by Cano, to approve the Consent Calendar. Carried by unanimous vote.

**APPROVAL OF MINUTES**

1. Approval of the Minutes of the Regular Meeting of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency of September 15, 2015. (City Clerk)  
**ACTION:** Approved. See above.

**SUCCESSOR AGENCY 2015 (406-10-13)**

2. Successor Agency Warrant Register #7 for the period of 08/12/15 through 08/18/15 in the amount of \$924.56. (Finance)  
**ACTION:** Approved. See above.

**SUCCESSOR AGENCY 2015 (406-10-13)**

3. Successor Agency Warrant Register #8 for the period of 08/19/15 through 08/25/15 in the amount of \$1,000.00. (Finance)  
**ACTION:** Approved. See above.

**STAFF REPORTS**

None.

**CLOSED SESSION REPORT**

There were no Closed Session items for the Successor Agency.

**ADJOURNMENT**

Motion by Sotelo-Solis, seconded by Cano, to adjourn the meeting to the next Regular Meeting of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency to be held Tuesday, October 20, 2015, 6:00 p.m., Council Chambers, National City, California. Carried by unanimous vote.

The meeting closed at 9:44 p.m.

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Secretary

The foregoing minutes were approved at the Regular Meeting of October 20, 2015.

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Chairman



The following page(s) contain the backup material for Agenda Item: Investment transactions for the month ended August 31, 2015. (Finance)

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

**MEETING DATE:** October 20, 2015

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Investment transactions for the month ended August 31, 2015.

**PREPARED BY:** Ronald Gutlay

**DEPARTMENT:** Finance

**PHONE:** (619) 336-4346

**APPROVED BY:** 

**EXPLANATION:**

In accordance with California Government Code Section 53646 and City of National City's investment policy section XIIA, a monthly report shall be submitted to the legislative body accounting for transactions made during the reporting period.

The attached listing reflects investment transactions of the City of National City's Successor Agency investment portfolio for the month ending August 31, 2015.

**FINANCIAL STATEMENT:**

**APPROVED:**  Finance

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ MIS

NA

**ENVIRONMENTAL REVIEW:**

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

**ORDINANCE:** INTRODUCTION:

FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Accept and file the Investment Transaction Report for the month ended August 31, 2015.

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

Investment Transaction Report

**SUCCESSOR AGENCY - CDC OF NC**  
**Cash with Fiscal Agents / LAIF**  
**August 31, 2015**

CUSIP	Investment #	Issuer	Beginning Balance	Contributions Distributions	Net Change in Investment	Ending Balance
SYS10013	10013	National City 2004 TAB	\$ 35,634.30	-35,634.48	0.18	\$ (0.00)
SYS10010	10010	National City 2005A TAB	\$ 2,183,659.52	-2,192,872.92 <sup>1</sup>	10,761.90	\$ 1,548.50
SYS10040	10040	National City 2011 TAB	\$ 4,215,787.52	-19,954.75 <sup>2</sup>	10,124.41	\$ 4,205,957.18
SYS10020	10020	National City 1999 TAB Reserve	\$ 333,395.86		11.20	\$ 333,407.06
Local Agency Investment Fund - LAIF	65-37-014		\$ 22,473,043.86			\$ 22,473,043.86
			<b>29,241,521.06</b>	<b>(2,248,462.15)</b>	<b>20,897.69</b>	<b>27,013,956.60</b>

Note: <sup>1</sup> 1495,150; Distributions \$2,688,022.92

<sup>2</sup> Reimbursement of excess debt service payment on 8/1/2015



ACCOUNT NUMBER: 271375  
COMMUNITY DEVELOPMENT COMMISSION OF  
THE CITY OF NATIONAL CITY  
NATIONAL CITY REDEVELOPMENT PROJECT  
2004 TAX ALLOCATION BONDS, SERIES A  
REDEVELOPMENT FUND

This statement is for the period from  
August 1, 2015 to August 31, 2015

### MARKET VALUE SUMMARY

	Current Period 08/01/15 to 08/31/15	Year-to-Date 01/01/15 to 08/31/15
<b>Beginning Market Value</b>	<b>\$35,634.30</b>	<b>\$35,633.04</b>
Distributions	- 35,634.48	- 35,634.48
<b>Adjusted Market Value</b>	<b>- \$.18</b>	<b>- \$1.44</b>
<b>Investment Results</b>		
Interest, Dividends and Other Income	0.18	1.44
<b>Total Investment Results</b>	<b>\$.18</b>	<b>\$1.44</b>
<b>Ending Market Value</b>	<b>\$.00</b>	<b>\$.00</b>



ACCOUNT NUMBER: 285693  
COMMUNITY DEVELOPMENT COMMISSION OF  
THE CITY OF NATIONAL CITY  
NATIONAL CITY REDEVELOPMENT PROJECT  
2005 TAXABLE ALLOCATION REFUNDING  
BONDS SERIES A - RESERVE ACCOUNT

This statement is for the period from  
August 1, 2015 to August 31, 2015

### MARKET VALUE SUMMARY

	Current Period 08/01/15 to 08/31/15	Year-to-Date 01/01/15 to 08/31/15
<b>Beginning Market Value</b>	<b>\$2,183,659.52</b>	<b>\$2,171,582.72</b>
Contributions	495,150.00	495,150.00
Distributions	- 2,688,022.92	- 2,698,358.92
<b>Adjusted Market Value</b>	<b>- \$9,213.40</b>	<b>- \$31,626.20</b>
<b>Investment Results</b>		
Interest, Dividends and Other Income	10,091.90	20,427.90
Net Change in Investment Value	670.00	12,746.80
<b>Total Investment Results</b>	<b>\$10,761.90</b>	<b>\$33,174.70</b>
<b>Ending Market Value</b>	<b>\$1,548.50</b>	<b>\$1,548.50</b>



ACCOUNT NUMBER: S668702  
COMMUNITY DEVELOPMENT COMMISSION OF  
CITY OF NATIONAL CITY  
NATIONAL CITY REDEVELOPMENT PROJECT  
2011 TAX ALLOCATION BONDS  
RESERVE SUBACCOUNT

This statement is for the period from  
August 1, 2015 to August 31, 2015

### MARKET VALUE SUMMARY

	Current Period 08/01/15 to 08/31/15	Year-to-Date 01/01/15 to 08/31/15
<b>Beginning Market Value</b>	<b>\$4,215,787.52</b>	<b>\$4,192,471.97</b>
Distributions	- 19,954.75	- 39,909.50
<b>Adjusted Market Value</b>	<b>\$4,195,832.77</b>	<b>\$4,152,562.47</b>
<b>Investment Results</b>		
Interest, Dividends and Other Income	19,954.75	39,909.50
Net Change in Investment Value	- 9,830.34	13,485.21
<b>Total Investment Results</b>	<b>\$10,124.41</b>	<b>\$53,394.71</b>
<b>Ending Market Value</b>	<b>\$4,205,957.18</b>	<b>\$4,205,957.18</b>



**BNY MELLON**

The Bank of New York Mellon Trust Company, N.A.

**CITY OF NATIONAL CITY  
IRK ROBERTS  
FINANCE DIRECTOR  
1243 NATIONAL CITY BOULEVARD  
NATIONAL CITY, CA 91950-4397**

### Account Statement

Statement Period 08/01/2015 Through 08/31/2015

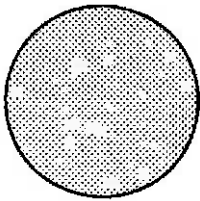
Account 264684  
NATIONAL CITY TAB 99 RESERVE FD

**CLIENT SERVICE MANAGER: CHRISTOPHER S JOHNSON**  
400 SOUTH HOPE STREET AIM: 901-0400  
LOS ANGELES, CA 90071  
213-630-6404  
CHRIS.JOHNSON@BNYMELLON.COM

Go Paperless. Securely access your account online to view your statements. Ask your BNY Mellon contact how we can help you access your accounts, enter your own transactions or submit an audit confirmation online. Also be sure to ask how Connect(SM), our new web-based, single sign-on platform can help you go paperless.

Visit us at [www.bnymellon.com](http://www.bnymellon.com)

### Account Overview



Percent of all Investments	Asset Classification	Market Value
100%	CASH AND SHORT TERM	333,407.06
100%	TOTAL OF ALL INVESTMENTS	333,407.06

### Summary of Assets Held

Asset Classification	Market Value	Cost	Accrued Income	Est Annual Income	Market Yield
D INCOME	0.00	0.00	0.00	0.00	0.00%
CASH AND SHORT TERM	333,407.06	333,407.06	0.00	0.00	0.00%
<b>ACCOUNT TOTALS</b>	<b>333,407.06</b>	<b>333,407.06</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00%</b>

### Summary of Cash Transactions

Transaction Category	Current Period			Year-to-Date	
	Income	Principal	Realized Gains/Losses	Income	Principal
OPENING BALANCE	0.00	0.00		0.00	0.00
DIVIDENDS	11.20	0.00	0.00	86.03	0.00
OTHER CASH ADDITIONS	0.00	0.00	0.00	0.99	0.00
OTHER CASH DISBURSEMENTS	0.00	0.00	0.00	0.72	0.00
PURCHASES	11.20	0.00	0.00	86.30	0.00
<b>CLOSING BALANCE</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

The above cash transactions summary is provided for information purposes only and may not reflect actual taxable income or deductible expenses as reportable under the Internal Revenue Code.

000451 XB332M1

Local Agency Investment Fund  
P.O. Box 942809  
Sacramento, CA 94209-0001  
(916) 653-3001

[www.treasurer.ca.gov/pmia-laif/laif.asp](http://www.treasurer.ca.gov/pmia-laif/laif.asp)  
September 15, 2015

S/A CITY OF NATIONAL CITY FOR NATIONAL  
CITY REDEVELOPMENT AGENCY  
FINANCE DIRECTOR  
1243 NATIONAL CITY BLVD  
NATIONAL CITY, CA 91950

PMIA Average Monthly Yields

Account Number:  
65-37-014

Tran Type Definitions

August 2015 Statement

Account Summary

Total Deposit:	0.00	Beginning Balance:	22,473,043.86
Total Withdrawal:	0.00	Ending Balance:	22,473,043.86



The following page(s) contain the backup material for Agenda Item: Successor Agency Warrant Register #9 for the period of 08/26/15 through 09/01/15 in the amount of \$7,432.50. (Finance)

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

**MEETING DATE:** October 20, 2015

**AGENDA ITEM NO. |**

**ITEM TITLE:**

Successor Agency Warrant Register #9 for the period of 08/26/15 through 09/01/15 in the amount of \$7,432.50 (Finance)

**PREPARED BY:** K. Apalategui  
**PHONE:** 619-336-4572

**DEPARTMENT:** Finance

**APPROVED BY:** 

**EXPLANATION:**

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

In order to streamline the payment process, all check-paid expenses of the Successor Agency are paid by the City. The Successor Agency then reimburses the City. Successor Agency wires are paid directly from the Successor Agency account.

Attached is a detailed listing of all Successor Agency expenses for the period, which total \$7,432.50. Staff requests approval of payments of Successor Agency expenses.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

Reimbursement total \$7,432.50

**APPROVED:**  Finance

**APPROVED:** \_\_\_\_\_ MIS

**ENVIRONMENTAL REVIEW:**

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

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

**STAFF RECOMMENDATION:**

Ratification of reimbursement in the amount of \$7,432.50

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

Successor Agency Warrant Register #9



SUCCESSOR AGENCY  
WARRANT REGISTER #9  
9/1/2015

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
<u>CHECKS</u> OPPER & VARCO LLP	LEGAL / TOD / S A	319288	8/31/15	7,432.50
A/P Sub-Total				<u>\$ 7,432.50</u>
Total disbursements paid with City's Funds				<u>\$ 7,432.50</u>
GRAND TOTAL				<u>\$ 7,432.50</u>

The following page(s) contain the backup material for Agenda Item: Successor Agency Warrant Register #10 for the period of 09/02/15 through 09/08/15 in the amount of \$1,043.83. (Finance)

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

**MEETING DATE:** October 20, 2015

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Successor Agency Warrant Register #10 for the period of 09/02/15 through 09/08/15 in the amount of \$1,043.83 (Finance)

**PREPARED BY:** K. Apalategui  
**PHONE:** 619-336-4572

**DEPARTMENT:** Finance

**APPROVED BY:** 

**EXPLANATION:**

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

In order to streamline the payment process, all check-paid expenses of the Successor Agency are paid by the City. The Successor Agency then reimburses the City. Successor Agency wires are paid directly from the Successor Agency account.

Attached is a detailed listing of all Successor Agency expenses for the period, which total \$1,043.83. Staff requests approval of payments of Successor Agency expenses.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

Reimbursement total \$1,043.83

**APPROVED:**  Finance

**APPROVED:** \_\_\_\_\_ MIS

**ENVIRONMENTAL REVIEW:**

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

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

**STAFF RECOMMENDATION:**

Ratification of reimbursement in the amount of \$1,043.83

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

Successor Agency Warrant Register #10



**SUCCESSOR AGENCY  
WARRANT REGISTER #10  
9/8/2015**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
<u>CHECKS</u>				
KANE BALLMER & BERKMAN	LEGAL/ SUCCESSOR AGENCY OPERATIONS / S A	319530	9/8/15	90.00
SDG&E	UTILITIES SVCS - 6/18 - 7/20/15 / S A	319531	9/8/15	908.39
SWEETWATER AUTHORITY	UTILITIES SVCS - 6/2 - 8/3/15 / S A	319532	9/8/15	45.44
			A/P Sub-Total	<u>\$ 1,043.83</u>
			<b>Total disbursements paid with City's Funds</b>	<u>\$ 1,043.83</u>
			<b>GRAND TOTAL</b>	<u>\$ 1,043.83</u>

The following page(s) contain the backup material for Agenda Item: Resolution of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency authorizing the Chairman to execute a Memorandum of Understanding between the Successor Agency and the City of National City regarding the

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

**MEETING DATE:** October 20, 2015

**AGENDA ITEM NO.** |

**ITEM TITLE:** Resolution of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency authorizing the Chairman to execute a Memorandum of Understanding between the Successor Agency and the City of National City regarding the distribution of anticipated settlement proceeds from the RSG Arbitration matter.

**PREPARED BY:** Claudia G. Silva      Brad Raulston  
**PHONE:**                      Ext. 4222                      Ext. 4256

**DEPARTMENT:** City Attorney and  
Successor Agency

**APPROVED BY:** 

**APPROVED BY:** 

**EXPLANATION:**  
  
Please see attached staff report.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**  
N/A

**APPROVED:** \_\_\_\_\_ Finance  
**APPROVED:** \_\_\_\_\_ MIS

**ENVIRONMENTAL REVIEW:**

N/A

**ORDINANCE:** INTRODUCTION:       FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Adopt proposed resolution.

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

- Staff Report
- Memorandum of Understanding
- Proposed resolution



## Staff Report

### BACKGROUND

On February 20, 2007, the former Community Development Commission of the City of National City ("CDC") entered into an Agreement with Rosenow Spevacek Group, Inc. ("RSG") for the 2007 Redevelopment Plan Amendment. The 2007 Redevelopment Plan Amendment was prepared by RSG and eventually adopted in July of 2007. On or about September 2007, the 2007 Redevelopment Plan Amendment was challenged by the Community Youth Athletic Center (the "CYAC matter"). In addition to the reverse validation challenge to the 2007 Redevelopment Plan Amendment, the CYAC matter alleged violations of the public records act, due process, and takings. In April 2015, the trial court entered judgment in the CYAC matter, awarding fees in the amount of \$2,016,249.87.

In or about 2011, the City and CDC commenced arbitration proceedings seeking damages against RSG arising out of work performed by RSG pursuant to its contract with the CDC (the "Arbitration Proceedings"). In the Arbitration Proceedings, the City and CDC (now the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("SA")) alleged that RSG negligently performed its contractual obligations which resulted in compensatory damages. More specifically, the invalidation of the 2007 Redevelopment Plan Amendment (as well as the public record act violations) in the CYAC matter resulted in compensatory damages for the expended and awarded attorneys' fees amounting to over \$3,000,000; compensatory damages representing the loss of revenues which were dependent upon validation of the 2007 Redevelopment Plan, in the form of increased sales tax to the City (\$18,000,000), increased property tax/tax increment to the Successor Agency (\$12,640,000), and the value of developer-provided infrastructure improvements (\$2,500,000); and, the damages related to the additional expenses incurred by the SA related to increased bonding expenses (\$9,148,840) for the 2011 bonds.

During the course of the Arbitration Proceedings, extensive discovery was undertaken by the parties. The City and SA determined that RSG was insured with an aggregate policy limit of \$2,000,000, reduced by claim expenses. The Arbitration Proceedings defense costs (by RSG) have been paid from the insurance policy proceeds, thereby reducing the available policy limits to approximately \$1,800,000.

During the pendency of the Arbitration Proceedings, the parties engaged in two lengthy negotiations conducted at two mediation sessions over many months. The parties agreed to settle the matter for the available policy limits, contingent upon approval by the Oversight Board and the California Department of Finance ("DOF"). The Oversight Board approved the settlement. The DOF denied approval, stating the DOF needed documentation of the distribution of the estimated \$1,800,000 between the SA and the City.

Successor Agency staff have been engaging in discussions with DOF to obtain approval of the settlement so that the Arbitration Proceedings can conclude. Successor Agency staff has suggested to DOF that approval can include a requirement that distribution of the proceeds between the City and SA requires separate approval by DOF.

#### MEMORANDUM OF UNDERSTANDING REGARDING DISTRIBUTION OF SETTLEMENT PROCEEDS

While the conversation between staff and DOF are still occurring, staff has drafted a memorandum of understanding between the City and SA regarding the distribution of the settlement proceeds. The proposed memorandum of understanding ("MOU") distributes the settlement proceeds proportionally between the City and SA based on each party's respective percentage of damages, which are summarized above. The total approximate damage claimed by the SA is \$24,702,589 and the total approximate damage claimed by the City is \$20,777,074. This methodology results in the SA receiving 54% and the City receiving 45% of the balance of the settlement proceeds, after the attorneys' fees are paid.

#### RECOMMENDATION

Staff recommends authorizing the Chairman to execute the MOU.

These actions would require Oversight Board approval and DOF approval before they are final. The MOU contains these contingencies. This item is on the Oversight Board agenda for October 21, 2015.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF NATIONAL CITY AND  
THE SUCCESSOR AGENCY TO THE  
COMMUNITY DEVELOPMENT COMMISSION  
AS THE NATIONAL CITY REDEVELOPMENT AGENCY**

This Memorandum of Understanding is entered into this 20<sup>th</sup> day of October, 2015, by and between the City of National City ("City") and the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("SA").

**RECITALS**

- A. In 2011, the CITY and SA commenced arbitration proceedings against Rosenow Spevacek Group, Inc. ("RSG") arising out of work performed by RSG pursuant to its contract with the Community Development Commission of the City of National City dated February 20, 2007 (the "Arbitration Proceedings").
- B. In the Arbitration Proceedings, the CITY and SA alleged that RSG negligently performed its contractual obligations resulting in invalidation of the 2007 Redevelopment Plan Update in an action filed by Community Youth Athletic Center and others (collectively "CYAC"). The Superior Court's judgment invalidating the Redevelopment Plan in the underlying action was affirmed by the Court of Appeal in 2013.
- C. In the Arbitration Proceedings, the CITY and SA sought compensatory damages from RSG, representing (1) attorney fees totaling \$2,016,249 awarded in the underlying action; (2) attorney's fees totaling \$1,064,574 incurred by the CITY (\$277,074) and SA (\$787,500) in defending the underlying action; (3) attorney's fees exceeding \$110,000 to prosecute the Arbitration Proceedings; and (4) compensatory damages representing (a) loss of revenues caused by disruption of improvement and development within the City which was dependent upon validation of the Redevelopment Plan Amendment, in the form of increased sales tax revenue to the CITY (\$18,000,000), increased property tax/tax increment revenue to the SA (\$12,640,000), the value of developer-provided infrastructure improvements to the CITY (\$2,500,000), etc.; and (b) additional expenses incurred by the SA related to increased bonding expenses caused by the invalidation proceedings (\$9,148,840). The damages alleged were approximately \$24,702,589 for the SA and approximately \$20,777,074 for the CITY.

- D. Following a period of due diligence and formal discovery, it was determined that RSG was insured by National Union Fire Insurance Company of Pittsburgh, PA with aggregate policy limits of \$2,000,000.00 reduced by claims expenses. RSG denied liability for the claims and damages alleged by CITY and SA. RSG incurred legal fees and costs to defend the Arbitration Proceedings, which have been paid from the proceeds of the National Union Policy, thereby reducing the available policy limits. Due diligence and discovery by CITY and SA revealed that RSG is likely unable to satisfy a judgment or award in favor of CITY and SA substantially in excess of its available insurance policy limits.
- E. During the pendency of the Arbitration Proceedings, the Parties engaged in two lengthy negotiations conducted at two mediation sessions over many months. The Parties agreed to settle the disputes between them for approximately \$1,800,000 subject to the terms and conditions set forth in the settlement agreement, which was subject to California Department of Finance ("DOF") approval.
- F. The DOF sought review of the settlement agreement, and stated it could not approve the Oversight Board action regarding the settlement agreement until DOF receives documentation delineating the breakdown of the estimated \$1,800,000 between the SA and the City.
- G. This Memorandum of Understanding ("MOU") is intended to document the distribution of the estimated \$1,800,000 between the SA and the CITY.

NOW, THEREFORE, the SA and the CITY agree as follows:

1. The amount of proceeds received by RSG from the settlement of the RSG Arbitration Proceedings shall be distributed as follows:
  - a. Prior to distribution between the CITY and SA, the attorneys' fees due to Mazzearella and Mazzearella shall be paid, pursuant to and as obligated by the Agreement for Legal Services previously approved by DOF; and,
  - b. After the attorneys' fees due to Mazzearella and Mazzearella have been paid, the balance of the proceeds shall be distributed between the CITY and SA reflective of their damages described in the recitals above, as follows:
    - i. SA shall receive 54% of the balance remaining; and,
    - ii. CITY shall receive 46% of the balance remaining.

2. This MOU shall be effective upon approval by the parties, the Oversight Board, and the California Department of Finance.

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

**CITY OF NATIONAL CITY**

By: \_\_\_\_\_  
Ron Morrison, Mayor

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

By: \_\_\_\_\_  
Ron Morrison, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Claudia G. Silva  
City Attorney

APPROVED AS TO FORM:

\_\_\_\_\_  
Claudia G. Silva  
General Counsel

RESOLUTION NO. 2015 –

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 MEMORANDUM OF UNDERSTANDING  
BETWEEN THE SUCCESSOR AGENCY AND THE CITY OF NATIONAL CITY  
REGARDING THE DISTRIBUTION OF ANTICIPATED SETTLEMENT  
PROCEEDS FROM THE RSG ARBITRATION MATTER

WHEREAS, on February 20, 2007, the former Community Development Commission of the City of National City (“CDC”) entered into an Agreement with Rosenow Spevacek Group, Inc. (“RSG”), for the 2007 Redevelopment Plan Amendment; and

WHEREAS, the 2007 Redevelopment Plan Amendment was prepared by RSG and eventually adopted in July of 2007; and

WHEREAS, in September 2007, the 2007 Redevelopment Plan Amendment was challenged by the Community Youth Athletic Center (the “CYAC matter”); and

WHEREAS, in April 2015, the trial court entered judgment in the CYAC matter, awarding fees to CYAC in the amount of \$2,016,249.87; and

WHEREAS, in 2011, the City and CDC (now the Successor Agency to the Community Development Commission as the National City Redevelopment Agency (“SA”)) commenced arbitration proceedings seeking damages against RSG arising out of work performed by RSG pursuant to its contract with the CDC (the “Arbitration Proceedings”); and

WHEREAS, in the Arbitration Proceedings, the City and SA alleged that RSG negligently performed its contractual obligations resulting in compensatory damages; and

WHEREAS, the parties agreed in the Arbitration Proceedings to settle the matter for insurance policy limits estimated at \$1,800,000, contingent upon approval by the Oversight Board and the California Department of Finance (“DOF”); and

WHEREAS, the Oversight Board approved the settlement, but the DOF denied approval because the DOF required documentation of the settlement distribution between the SA and the City; and

WHEREAS, the proposed memorandum of understanding between the City and SA addresses DOF’s concern and distributes the settlement proceeds proportionally between the City and SA based on each party’s respective percentage of damages with the total approximate damage claimed by the SA at \$24,702,589, and the total approximate damage claimed by the City at \$20,777,074. This methodology results in the SA receiving 54% and the City receiving 45% of the balance of the settlement proceeds, after the attorneys’ fees are paid; and

WHEREAS, the MOU must be approved by both the Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency (“Oversight Board”) and the California Department of Finance prior to being effective.

NOW, THEREFORE, BE IT RESOLVED that the Successor Agency to the Community Development Commission as the National City Redevelopment Agency hereby authorizes the Chairman to execute a Memorandum of Understanding between the Successor Agency and the City of National City regarding the distribution of anticipated proceeds from the RSG Arbitration matter.

PASSED and ADOPTED this 20<sup>th</sup> day of October, 2015.

\_\_\_\_\_  
Ron Morrison, Chairman

ATTEST:

\_\_\_\_\_  
Michael R. Dalla, City Clerk as  
Secretary to the Successor Agency

APPROVED AS TO FORM:

\_\_\_\_\_  
Claudia Gacitua Silva  
Successor Agency Counsel