



City of San Leandro

Meeting Date: January 17, 2017

Staff Report

File Number: 17-003 **Agenda Section:** CONSENT CALENDAR

Agenda Number: 8.F.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for Resolutions Approving an Agreement Regarding Expenditure of Excess Bond Proceeds and Authorizing the Acceptance of the Transfer of Excess Bond Proceeds from the Successor Agency to the Redevelopment Agency of the City of San Leandro to the City of San Leandro

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council, serving in its capacity as the Board of Directors of the Successor Agency to the Redevelopment Agency of the City of San Leandro (Successor Agency), adopt a Resolution approving an Agreement with the City of San Leandro regarding the expenditure of excess bond proceeds and authorizing the transfer of such proceeds to the City of San Leandro.

Staff also recommends that the City Council adopt a Resolution approving an Agreement with the Successor Agency regarding the expenditure of excess bond proceeds and authorizing the acceptance of the transfer of such proceeds from the Successor Agency.

A total of \$1,764,526 in bond proceeds from the Alameda County-City of San Leandro Redevelopment Project Tax Allocation Bonds, Series 2008, (2008 Bonds) are proposed for transfer and expenditure for purposes consistent with the bond covenants, specifically to construct capital improvements in the Joint Project Area, including improvements to the "Triangle" project at E. 14th St./Hesperian Blvd./150th St., as well as streetscape, utility undergrounding, pedestrian, and lighting improvements along north and south portions of East 14th Street.

BACKGROUND

On September 1, 2008, the Redevelopment Agency issued Tax Allocation Bonds, in the original principal amount of \$27,530,000 (2008 Bonds) to finance redevelopment projects in the Alameda County-City of San Leandro Redevelopment Project Area (Joint Project Area).

Such projects included the design and construction of a senior center, a downtown parking garage, and infrastructure improvements on East 14th Street.

On October 28, 2015, the Successor Agency to the Redevelopment Agency of the City of San Leandro received its Finding of Completion, certifying that the Successor Agency deposited all funds with the Alameda County Auditor-Controller as required by the California Department of Finance (DOF) per California Health and Safety Code Sections 34179.6 and 34183.5.

Pursuant to the Finding of Completion, the Successor Agency is authorized to use the proceeds of Redevelopment Agency bonds issued on or before December 31, 2010 for the purposes for which the bonds were sold. In order to be expended, excess bond proceeds must be listed separately on the Successor Agency Recognized Obligation Payment Schedule (ROPS). With the approval of the Oversight Board to the Successor Agency (Oversight Board), the expenditure of excess bond proceeds may be established as an enforceable obligation and transferred to the entity that created the redevelopment agency, namely the City of San Leandro.

ANALYSIS

The 2008 Bonds have approximately \$2.3 million in excess bond proceeds that are not committed to previously approved enforceable obligations at the time of dissolution of the Redevelopment Agency in 2012. On September 19, 2016, an Agreement was developed to authorize an initial transfer of \$600,000 in 2008 Bonds from the Successor Agency to the City of San Leandro for improvements to the downtown parking garage. An additional \$1.7 million in excess bond proceeds remains to be allocated to projects.

In keeping with bond covenants, staff recommends that the remaining \$1.7 million in excess bond proceeds be expended on capital improvements in the Joint Project Area, including improvements to the Triangle at E. 14th St./Hesperian Blvd./150th St., as well as streetscape, utility undergrounding, pedestrian, and lighting improvements along north and south portions of East 14th Street.

Based upon direction from the City Council at its January 3, 2017 meeting, the following capital improvements are recommended:

- \$750,000 E. 14th St/Hesperian/150th Triangle Gateway Beautification Project - Conversion of an underutilized parcel at the intersection of East 14th St, Hesperian Blvd, and 150th Ave. into a public open space, including landscaping, art, and walkways on the gravel lot. The recommended funding would complement existing appropriations for a traffic safety project to add the beautification component.
- \$750,000 E. 14th St. North Area Pedestrian Lighting/Streetscape Improvements (Davis to Durant) - Design and construct new pedestrian lighting and streetscape improvements, which may include new light poles, lights on existing poles, paving, landscaping, and street trees.
- \$264,526 E. 14th St. South Area Utility Undergrounding - Placement underground of utility lines along E. 14th Street

These projects are recommended because they are in the Joint Project Area, fall under the umbrella of projects identified in the 2008 Bonds, and can be constructed within the next budget cycle. These projects also represent the culmination of the City's forward planning and policy goals, including recommendations from the City's East 14th Street South Area Development Strategy, the North Area Specific Plan & Revitalization Manual, and the Bicycle and Pedestrian Master Plan. Additionally, the funding will implement specific projects identified in the City's Capital Improvement Plan (CIP), freeing up future capital improvement funding for other projects.

An agreement between the City of San Leandro and the Successor Agency was developed to authorize transfer of the remaining \$1,764,526 in 2008 Bonds to the City for projects consistent with the original bond covenants and outlined above.

If approved by the City Council and Successor Agency, these items will be presented to the Oversight Board on January 18, 2017 for approval as an enforceable obligation and subsequent placement on the 2017-18 ROPS (Recognized Obligation Payment Schedule). The 2017-18 ROPS will be considered at the same Oversight Board meeting and subsequently sent to the DOF for approval.

Staff requests that:

- 1) The City Council serving in its capacity as the Board of Directors of the Successor Agency to the Redevelopment Agency of the City of San Leandro (Successor Agency) adopt a Resolution approving an Agreement with the City of San Leandro regarding the expenditure of excess bond proceeds and authorizing the transfer of such proceeds to the City of San Leandro.
- 2) The City Council adopt a Resolution approving an Agreement with the Successor Agency regarding the expenditure of excess bond proceeds and authorizing the acceptance of the transfer of such proceeds from the Successor Agency.

Previous Actions

- On October 28, 2015, the Successor Agency to the Redevelopment Agency of the City of San Leandro received its Finding of Completion, authorizing the Successor Agency to utilize proceeds derived from bonds issued prior to December 31, 2010 in a manner consistent with the original bond covenants.
- On September 19, 2016, the Successor Agency to the Redevelopment Agency of the City of San Leandro approved an Agreement with the City of San Leandro regarding the expenditure of \$600,000 of excess bond proceeds and authorizing the transfer of such proceeds to the City of San Leandro.

Legal Analysis

This report and the proposed agreement were reviewed by the City Attorney and approved as to form.

Fiscal Impacts

The \$1,764,526 in excess bond proceeds will be transferred to the City at no cost and will be utilized in a manner consistent with the bond proceeds.

Attachment to Resolutions

- Agreement Regarding Expenditure of Excess Bond Proceeds and Authorizing the Acceptance of the Transfer of Excess Bond Proceeds from the Successor Agency to the Redevelopment Agency of the City of San Leandro to the City of San Leandro

PREPARED BY: Katie Bowman, Economic Development Manager, Community Development Department



City of San Leandro

Meeting Date: January 17, 2017

Resolution - Council

File Number: 17-005

Agenda Section: CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION of the Successor Agency to the Redevelopment Agency of the City of San Leandro Approving an Agreement Regarding Expenditure of Excess Bond Proceeds and Authorizing the Transfer of Excess Bond Proceeds to the City of San Leandro

WHEREAS, pursuant to authority granted under Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) (the "CRL"), the former Redevelopment Agency of the City of San Leandro ("Redevelopment Agency") had responsibility to implement the three redevelopment plans for the San Leandro Redevelopment Project (collectively, the "Project Area"); and

WHEREAS, pursuant to that certain Indenture of Trust dated as of July 1, 2008 and executed by and between the Redevelopment Agency and U.S. Bank, National Association, as Trustee (the "**Indenture**"), the Redevelopment Agency issued Tax Allocation Bonds in the original principal amount of \$27,530,000 (the "**Bonds**"); and

WHEREAS, pursuant to Resolution 2012-001, adopted by the City Council of the City of San Leandro (the "**City Council**") on January 9, 2012, the City Council agreed to serve as the governing board to the Successor Agency commencing upon dissolution of the Redevelopment Agency on February 1, 2012, pursuant to Assembly Bill x1 26 (as further amended by AB 1484 and SB 107, the "**Dissolution Law**"); and

WHEREAS, pursuant to the Dissolution Law, on October 28, 2015 the Successor Agency was granted a Finding of Completion from the California State Department of Finance (the "**DOF**"); and

WHEREAS, Health and Safety Code Section 34191.4(c) of the Dissolution Law provides that once a successor agency receives a finding of completion, the successor agency is authorized to use the proceeds of bonds issued on or before December 31, 2010, for the purposes for which the bonds were sold and is further authorized to expend bond proceeds in excess of amounts needed to satisfy previously approved enforceable obligations ("Excess Bond Proceeds") in a manner consistent with the original bond covenants; and

WHEREAS, Health and Safety Code Section 34191.4(c) further provides that the expenditure of Excess Bond Proceeds must be listed separately on the Recognized Obligation Payment Schedule ("ROPS"); and

WHEREAS, the Successor Agency currently holds approximately \$2,300,000 in available Excess Bond Proceeds that can be used to pay all or a portion of the costs of projects located in the Project Area, as set forth in the redevelopment financing plan; and

WHEREAS, Successor Agency staff prepared an Agreement Regarding Expenditure of Excess Bond Proceeds ("Agreement") that provides for a transfer of One Million, Seven Hundred Sixty-Four, Five Hundred Twenty-Six Dollars (\$1,764,526) in Excess Bond Proceeds to the City and commits the City to use the Excess Bond Proceeds for purposes set forth in the Agreement and consistent with the Bond covenants; and

WHEREAS, the execution of the Agreement and the acceptance of Excess Bond Proceeds is subject to approval by the City Council by Resolution; and

WHEREAS, the execution of the Agreement and the transfer of Excess Bond Proceeds to the City are also subject to approval by the Oversight Board to the Successor Agency.

NOW, THEREFORE, IT IS RESOLVED by the Governing Board of the Successor Agency to the Redevelopment Agency of the City of San Leandro that:

1. The facts stated in the foregoing Recitals are hereby acknowledged and affirmed.
2. The Agreement is approved, and the Executive Director or his designee is authorized to execute the Agreement on behalf of the Successor Agency substantially in the form presented to this Board.
3. The Successor Agency is authorized and directed to transfer the Excess Bond Proceeds to the City to use for purposes consistent with the Agreement, the Bond covenants, and the applicable provisions of the CRL.
4. The Executive Director and his designees are authorized to take such further actions as may be necessary to carry out the intent of this Resolution, including without limitation, the listing of the Agreement and the transfer of the Excess Bond Proceeds to the City on the Recognized Obligation Payment Schedule ("ROPS").

**AGREEMENT REGARDING EXPENDITURE OF
EXCESS BOND PROCEEDS**

This Agreement Regarding Expenditure of Excess Bond Proceeds (this “**Agreement**”) is entered into effective as of January 17, 2017 (“**Effective Date**”) by and between the Successor Agency to the Redevelopment Agency of the City of San Leandro (the “**Successor Agency**”) and the City of San Leandro, a California charter city (the “**City**”). The Successor Agency and the City are hereinafter collectively referred to as the “**Parties.**”

RECITALS

A. Pursuant to authority granted under Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) (the “**CRL**”), the former Redevelopment Agency of the City of San Leandro (“**Redevelopment Agency**”) had responsibility to implement the three redevelopment plans for the San Leandro Redevelopment Project (collectively, the “**Project Area**”).

B. Pursuant to that certain Indenture of Trust dated as of July 1, 2008 and executed by and between the Redevelopment Agency and U.S. Bank, National Association, as Trustee (the “**Indenture**”), the Redevelopment Agency issued Tax Allocation Bonds in the original principal amount of \$27,530,000 (the “**Bonds**”).

C. Pursuant to Resolution 2012-001, adopted by the City Council of the City of San Leandro (the “**City Council**”) on January 9, 2012, the City Council agreed to serve as the governing board to the Successor Agency commencing upon dissolution of the Redevelopment Agency on February 1, 2012, pursuant to Assembly Bill x1 26 (as further amended by AB 1484 and SB 107, the “**Dissolution Law**”).

D. Pursuant to the Dissolution Law, on October 28, 2015 the Successor Agency was granted a finding of completion from the California State Department of Finance (the “**DOF**”).

E. Health and Safety Code Section 34191.4(c) of the Dissolution Law provides that once a successor agency has received a finding of completion, the successor agency is authorized to use the proceeds of bonds issued on or before December 31, 2010 for the purposes for which the bonds were sold, and is further authorized to expend bond proceeds in excess of amounts needed to satisfy previously approved enforceable obligations (“**Excess Bond Proceeds**”) in a manner consistent with the original bond covenants;

F. Health and Safety Code Section 34191.4(c) further provides that the expenditure of Excess Bond Proceeds must be listed separately on the Recognized Obligation Payment Schedule (“**ROPS**”) (as defined in the Dissolution Law).

G. The Parties desire to enter into this Agreement to address the use of Excess Bond Proceeds for the purposes identified herein and consistent with the Bond covenants, and to provide for the transfer of Excess Bond Proceeds to the City to be used for such purposes.

H. The Successor Agency currently holds approximately \$2,300,000 in available Excess Bond Proceeds that can be used to pay all or a portion of the costs of projects located in the Project Area, as set forth in the redevelopment financing plan.

I. The Successor Agency desires to transfer One Million, Seven Hundred Sixty-Four, Five Hundred Twenty-Six Dollars (\$1,764,526) in Excess Bond Proceeds to the City for improvements to perform capital improvements in the Joint Project Area, including improvements to the Triangle at E. 14th St./Hesperian Blvd./150th St., as well as streetscaping, utility undergrounding, pedestrian, and lighting improvements along north and south portions of East 14th Street. (the “**Project**”), and to put such request on the ROPS.

J. The execution of this Agreement was approved by the City Council and by the governing board of the Successor Agency by resolutions adopted on January 17, 2017.

K. The execution of this Agreement by the Successor Agency was approved by the Oversight Board to the Successor Agency by resolution adopted on January 18, 2017.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises herein contained, the Parties hereby agree as follows.

1. Incorporation of Recitals. The Parties acknowledge the truth of the foregoing Recitals which by this reference are incorporated into this Agreement.

2. Term. The term of this Agreement shall commence on the Effective Date, and shall continue in effect until the date that all Excess Bond Proceeds are expended in accordance with the requirements of this Agreement.

3. Transfer of Excess Bond Proceeds; ROPS Submittal. Successor Agency hereby agrees to transfer One Million, Seven Hundred Sixty-Four, Five Hundred Twenty-Six Dollars (\$1,764,526) of Excess Bond Proceeds to the City, for construction of the Project in accordance with the terms, conditions, and purposes set forth in this Agreement. The Successor Agency further agrees to put the Project on the ROPS for approval for financing with the Excess Bond Proceeds.

4. Use of Excess Bond Proceeds. The City agrees that it shall use the Excess Bond Proceeds solely for the purposes identified in this Agreement for construction of the Project, or if otherwise directed at a future date, and with approval of the Oversight Board for other public improvement projects consistent with the Bond covenants and applicable provisions of the CRL. The City shall keep the Excess Bond Proceeds in dedicated accounts separate from the City’s General Fund. The Parties shall cooperate with each other as may be necessary to ensure that the Excess Bond Proceeds are expended in a manner consistent with this Agreement. Unless the City expressly agrees otherwise, the City is not obligated to provide funding for any project, activity, or program in an amount greater than the Excess Bond Proceeds transferred to the City under this Agreement.

5. Project Approvals: Environmental Review. This Agreement is not intended to limit in any manner the discretion of City in connection with the issuance of approvals and entitlements for any projects funded with Excess Bond Proceeds, including without limitation, the undertaking and completion of any required environmental review pursuant to CEQA and NEPA, as applicable, and the review and approval of plans and specifications.

6. Severability. If any term, provision, covenant, or condition set forth in this Agreement is held by the final judgment of a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, covenants, and conditions shall continue in full force and effect to the extent that the basic intent of the Parties as expressed herein can be accomplished. In addition, the Parties shall cooperate in good faith in an effort to amend or

modify this Agreement in a manner such that the purpose of any invalidated or voided provision, covenant, or condition can be accomplished to the maximum extent legally permissible.

7. No Third-Party Beneficiaries; Assignments. Nothing in this Agreement is intended to create any third-party beneficiaries to this Agreement, and no person or entity other than the Successor Agency and the City, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

8. Further Assurances. Each Party agrees to execute, acknowledge and deliver all additional documents and instruments, and to take such other actions as may be reasonably necessary to carry out the intent of the transactions contemplated by this Agreement.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

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

11. Amendments. This Agreement may be modified or amended, in whole or in part, only by an instrument in writing, executed by the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

City of San Leandro,
a charter city

**Successor Agency to the
Redevelopment Agency of the
City of San Leandro,** a public entity

By: _____
City Manager

By: _____
Executive Director

Attest:

City Clerk

Attest:

Secretary

Reviewed as to Form:

City Attorney

Reviewed as to Form:

Agency Counsel



City of San Leandro

Meeting Date: January 17, 2017

Resolution - Council

File Number: 17-004

Agenda Section: CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION of the City Council of San Leandro Approving an Agreement Regarding Expenditure of Excess Bond Proceeds and Authorizing the Acceptance of the Transfer of Excess Bond Proceeds from the Successor Agency to the Redevelopment Agency of the City of San Leandro to the City of San Leandro

WHEREAS, pursuant to authority granted under Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) (the "CRL"), the former Redevelopment Agency of the City of San Leandro ("Redevelopment Agency") had responsibility to implement the three redevelopment plans for the San Leandro Redevelopment Project Area (collectively, the "Project Area"); and

WHEREAS, pursuant to that certain Indenture of Trust dated as of July 1, 2008 and executed by and between the Redevelopment Agency and U.S. Bank, National Association, as Trustee (the "Indenture"), the Redevelopment Agency issued Tax Allocation Bonds in the original principal amount of \$27,530,000 (the "Bonds"); and

WHEREAS, pursuant to Resolution 2012-001, adopted by the City Council of the City of San Leandro (the "City Council") on January 9, 2012, the City Council agreed to serve as the governing board to the Successor Agency commencing upon dissolution of the Redevelopment Agency on February 1, 2012, pursuant to Assembly Bill x126 (as further amended by AB 1484 and SB 107, the "Dissolution Law"); and

WHEREAS, pursuant to the Dissolution Law, on October 28, 2015 the Successor Agency was granted a Finding of Completion from the California State Department of Finance (the "DOF"); and

WHEREAS, Health and Safety Code Section 34191.4(c) of the Dissolution Law provides that once a successor agency has received a finding of completion, the successor agency is authorized to use the proceeds of bonds issued on or before December 31, 2010, for the purposes for which the bonds were sold and is further authorized to expend bond proceeds in excess of amounts needed to satisfy previously approved enforceable obligations ("Excess Bond Proceeds") in a manner consistent with the original bond covenants; and

WHEREAS, Health and Safety Code Section 34191.4(c) further provides that the expenditure of Excess Bond Proceeds must be listed separately on the Recognized Obligation Payment Schedule ("ROPS"); and

WHEREAS, the Successor Agency currently holds approximately \$2,300,000 in available Excess Bond Proceeds that can be used to pay all or a portion of the costs of projects located in the Project Area, as set forth in the redevelopment financing plan; and

WHEREAS, Successor Agency staff prepared an Agreement Regarding Expenditure of Excess Bond Proceeds ("Agreement") that provides for a transfer of One Million, Seven Hundred Sixty-Four, Five Hundred Twenty-Six Dollars (\$1,764,526) in Excess Bond Proceeds to the City and commits the City to use the Excess Bond Proceeds for purposes set forth in the Agreement and consistent with the Bond covenants; and

WHEREAS, the execution of the Agreement and the acceptance of Excess Bond Proceeds is subject to approval by the Successor Agency; and

WHEREAS, the execution of the Agreement and the transfer of Excess Bond Proceeds to the City are also subject to approval by the Oversight Board to the Successor Agency.

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of San Leandro that:

1. The facts stated in the foregoing Recitals are hereby acknowledged and affirmed.
2. The Agreement is approved, and the City Manager or his designee is authorized to execute the Agreement on behalf of the City of San Leandro substantially in the form presented to this Council.
3. The City is authorized and directed to accept the transfer of the Excess Bond Proceeds from the Successor Agency to use for purposes consistent with the Agreement, the Bond covenants, and the applicable provisions of the CRL.
4. The City Manager and his designees are authorized to take such further actions as may be necessary to carry out the intent of this Resolution.

**AGREEMENT REGARDING EXPENDITURE OF
EXCESS BOND PROCEEDS**

This Agreement Regarding Expenditure of Excess Bond Proceeds (this “**Agreement**”) is entered into effective as of January 17, 2017 (“**Effective Date**”) by and between the Successor Agency to the Redevelopment Agency of the City of San Leandro (the “**Successor Agency**”) and the City of San Leandro, a California charter city (the “**City**”). The Successor Agency and the City are hereinafter collectively referred to as the “**Parties.**”

RECITALS

A. Pursuant to authority granted under Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) (the “**CRL**”), the former Redevelopment Agency of the City of San Leandro (“**Redevelopment Agency**”) had responsibility to implement the three redevelopment plans for the San Leandro Redevelopment Project (collectively, the “**Project Area**”).

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F. Health and Safety Code Section 34191.4(c) further provides that the expenditure of Excess Bond Proceeds must be listed separately on the Recognized Obligation Payment Schedule (“**ROPS**”) (as defined in the Dissolution Law).

G. The Parties desire to enter into this Agreement to address the use of Excess Bond Proceeds for the purposes identified herein and consistent with the Bond covenants, and to provide for the transfer of Excess Bond Proceeds to the City to be used for such purposes.

H. The Successor Agency currently holds approximately \$2,300,000 in available Excess Bond Proceeds that can be used to pay all or a portion of the costs of projects located in the Project Area, as set forth in the redevelopment financing plan.

I. The Successor Agency desires to transfer One Million, Seven Hundred Sixty-Four, Five Hundred Twenty-Six Dollars (\$1,764,526) in Excess Bond Proceeds to the City for improvements to perform capital improvements in the Joint Project Area, including improvements to the Triangle at E. 14th St./Hesperian Blvd./150th St., as well as streetscaping, utility undergrounding, pedestrian, and lighting improvements along north and south portions of East 14th Street. (the “**Project**”), and to put such request on the ROPS.

J. The execution of this Agreement was approved by the City Council and by the governing board of the Successor Agency by resolutions adopted on January 17, 2017.

K. The execution of this Agreement by the Successor Agency was approved by the Oversight Board to the Successor Agency by resolution adopted on January 18, 2017.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises herein contained, the Parties hereby agree as follows.

1. Incorporation of Recitals. The Parties acknowledge the truth of the foregoing Recitals which by this reference are incorporated into this Agreement.

2. Term. The term of this Agreement shall commence on the Effective Date, and shall continue in effect until the date that all Excess Bond Proceeds are expended in accordance with the requirements of this Agreement.

3. Transfer of Excess Bond Proceeds; ROPS Submittal. Successor Agency hereby agrees to transfer One Million, Seven Hundred Sixty-Four, Five Hundred Twenty-Six Dollars (\$1,764,526) of Excess Bond Proceeds to the City, for construction of the Project in accordance with the terms, conditions, and purposes set forth in this Agreement. The Successor Agency further agrees to put the Project on the ROPS for approval for financing with the Excess Bond Proceeds.

4. Use of Excess Bond Proceeds. The City agrees that it shall use the Excess Bond Proceeds solely for the purposes identified in this Agreement for construction of the Project, or if otherwise directed at a future date, and with approval of the Oversight Board for other public improvement projects consistent with the Bond covenants and applicable provisions of the CRL. The City shall keep the Excess Bond Proceeds in dedicated accounts separate from the City’s General Fund. The Parties shall cooperate with each other as may be necessary to ensure that the Excess Bond Proceeds are expended in a manner consistent with this Agreement. Unless the City expressly agrees otherwise, the City is not obligated to provide funding for any project, activity, or program in an amount greater than the Excess Bond Proceeds transferred to the City under this Agreement.

5. Project Approvals: Environmental Review. This Agreement is not intended to limit in any manner the discretion of City in connection with the issuance of approvals and entitlements for any projects funded with Excess Bond Proceeds, including without limitation, the undertaking and completion of any required environmental review pursuant to CEQA and NEPA, as applicable, and the review and approval of plans and specifications.

6. Severability. If any term, provision, covenant, or condition set forth in this Agreement is held by the final judgment of a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, covenants, and conditions shall continue in full force and effect to the extent that the basic intent of the Parties as expressed herein can be accomplished. In addition, the Parties shall cooperate in good faith in an effort to amend or

modify this Agreement in a manner such that the purpose of any invalidated or voided provision, covenant, or condition can be accomplished to the maximum extent legally permissible.

7. No Third-Party Beneficiaries; Assignments. Nothing in this Agreement is intended to create any third-party beneficiaries to this Agreement, and no person or entity other than the Successor Agency and the City, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

8. Further Assurances. Each Party agrees to execute, acknowledge and deliver all additional documents and instruments, and to take such other actions as may be reasonably necessary to carry out the intent of the transactions contemplated by this Agreement.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

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

11. Amendments. This Agreement may be modified or amended, in whole or in part, only by an instrument in writing, executed by the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

City of San Leandro,
a charter city

**Successor Agency to the
Redevelopment Agency of the
City of San Leandro,** a public entity

By: _____
City Manager

By: _____
Executive Director

Attest:

Attest:

City Clerk

Secretary

Reviewed as to Form:

Reviewed as to Form:

City Attorney

Agency Counsel