



**REPORT TO THE CITY COUNCIL OF THE CITY OF CONCORD/CITY
COUNCIL SITTING AS THE SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY**

TO THE HONORABLE MAYOR AND COUNCIL:

DATE: September 9, 2014

**SUBJECT: ADOPTING CITY RESOLUTION NO. 14-70 AND SUCCESSOR AGENCY
RESOLUTION NO. 14-776S APPROVING A \$305,407 AGREEMENT REGARDING
EXPENDITURE OF EXCESS BOND PROCEEDS BETWEEN THE CITY OF
CONCORD AND THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT
AGENCY OF THE CITY OF CONCORD**

Report in Brief

As part of its 2014-15 Fiscal Budget process the City Council approved two capital improvement projects to be completed at Todos Santos Plaza located in the Central Concord Redevelopment Project Area:

- (1) Installation of archways at the corner of Willow Pass and Mt. Diablo and Willow Pass Road and Grant Street.
- (2) Installation of decorative tree lights for 24 trees bordering Todos Santos Plaza.

Pursuant to Redevelopment Dissolution law, the City of Concord was issued a finding of completion by the Department of Finance (DOF), which allows the Successor Agency authority on a number of redevelopment-related activities. In this case, it allows that proceeds from bonds issued by the City's former Redevelopment Agency may be made available for these and other projects, if the DOF determines that the projects are consistent with the bond covenants. To request authorization from DOF to expend redevelopment bond proceeds, the projects must be included on a Recognized Obligation Payment Schedule (ROPS) and approved by the Oversight Board for the Successor Agency City of Concord.

To secure the redevelopment bond proceeds for these projects, staff has prepared an Agreement Regarding Expenditure of Excess Bond Proceeds (Attachment 1) whereby the Successor Agency would provide the funding for the projects and the City would actually implement the projects. If approved by the City and Successor Agency, the Agreement will need to be approved by the Oversight Board, and then by DOF as part of the Successor Agency's ROPS 14-15B. If approved by the Oversight Board and DOF, the bond proceeds would be transferred to the City and would be available for the projects beginning in January 2015.

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September 9, 2014

Page 2

Staff recommends adoption of City Resolution No. 14-70 (Attachment 2) and Successor Agency Resolution No. 14-776S (Attachment 3) authorizing and approving an Agreement for Expenditure of Excess Bond Proceeds for Projects Consistent with Bond Covenants.

Background

The Redevelopment Dissolution Law (AB 1x 26, enacted June 28, 2011, as amended by AB 1484, enacted June 27, 2012) authorizes the Successor Agency, following issuance of a finding of completion by DOF, to use proceeds derived from redevelopment bonds issued prior to Jan. 1, 2011 in a manner consistent with the original bond covenants, as further provided in Health and Safety Code Section 34191.4(c). The Successor Agency for the Redevelopment Agency of the City of Concord received its finding of completion on August 7, 2013.

In 1985 the former Redevelopment Agency of the City of Concord issued bonds secured by redevelopment tax increment in the amount of \$72, 180,000. In 1988, the Redevelopment Agency refinanced the 1985 bonds through an issuance of redevelopment tax increment bonds in the amount of \$92,422,662.59. Today, the Successor Agency still holds \$305,407 in proceeds from these issuances that had been set aside by the Redevelopment Agency for public art.

The resolutions adopted by the Agency to issue the 1985 and 1988 bonds required that the proceeds of such bonds be deposited in a Redevelopment Fund and used in a manner consistent with Redevelopment Plan and applicable law. The Redevelopment Plan called for a number of activities consistent with the proposed uses of these remaining bond proceeds, including improving Todos Santos Plaza and surrounding street frontages with improved landscaping treatments as well as other amenities. The Plan called for unifying various segments of the Project Area so that they become functionally and visually one interrelated center for a variety of activities. An activity associated with this goal is to provide public improvements such as new streets, public ways, distinctive street lighting and sidewalk design to unify the area visually.

Discussion

The City of Concord currently has two projects that it desires to construct and install in Todos Santos Plaza in downtown Concord which is located in the former Redevelopment Agency project area:

- (1) Project No. 2294 (Todos Santos Plaza Archway Project) design was approved by the City Council in the FY14-15 Capital Improvement Budget. Two archway structures would be installed over the pedestrian entrance walkways to the Plaza, facing Willow Pass Road at the corners of Grant Street and Mt. Diablo Street. The design of the archways is complete and provides for two archways (approximately 12 feet high at the center of the span) supported by two concrete columns clad in flagstone. The estimated cost for the two archways is \$190,000. Staff is proposing that \$120,000 of

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September 9, 2014

Page 3

the cost be paid from redevelopment bond proceeds. The design and remainder of the construction cost was funded by Art in Public Places fund.

- (2) Public Works Project No. 2294 (Todos Santos Plaza Decorative Tree lights) was approved by the City Council in the FY14-15 budget. This project replaces existing nonfunctional tree lights located within the tree canopy and related appurtenances in 24 trees which surround Todos Santos Plaza with LED decorative string lights. The estimated cost for this project is \$132,000. Staff proposes that this cost be paid from redevelopment bond proceeds.

The proposed Agreement will allow the transfer of the remaining \$305,407 in “excess bond proceeds” held by the Successor Agency to the City for use on projects consistent with the bond covenants. After allocation and expenditure of the proposed \$252,000 for the tree light and archway projects, the City will have approximately \$53,407 remaining for expenditure on other projects consistent with the bond covenants.

Resolutions No. 14-70 and No. 14-776S are adopted by the City and Successor Agency, then the Agreement for Expenditure of Excess Bond Proceeds will be placed on the Successor Agency’s upcoming ROPS 14-15B. The ROPS would then be considered for approval at the Oversight Board for the City of Concord September 22, 2014 meeting. Once the Oversight Board approves the ROPS, it will be sent to DOF for its review and approval. If the ROPS is approved by DOF, funds for eligible City projects would be available come January 2015.

Fiscal Impact

Approving Resolutions No. 14-70 and No. 14-776S would allow the use of \$305,407 from former Redevelopment Agency bond proceeds (Non-General Fund) for stated projects.

Public Contact

Agenda Item has been posted.

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AGENCY OF THE CITY OF CONCORD**

September 9, 2014

Page 4

Recommendation for Action

Staff recommends approval of the following resolutions approving a \$305,407 agreement regarding expenditure of Excess Bond Proceeds between the City of Concord and the Successor Agency for the Redevelopment Agency of the City of Concord.

1. **As the City Council of the City of Concord, adopt** – Resolution No. 14-70 and authorize the Mayor to execute the agreement.

2. **As the Successor Agency for the Redevelopment Agency of the City of Concord, adopt** – Resolution No. 14-776S and authorize the City Manager to execute the agreement.



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Reviewed by: Victoria Walker
Director, Community & Econ. Dev.
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- Attachment 1: Agreement
Attachment 2: City Resolution No. 14-70
Attachment 3: Successor Agency Resolution No. 14-776S

**AGREEMENT REGARDING
EXPENDITURE OF EXCESS BOND PROCEEDS**

This Agreement Regarding Expenditure of Excess Bond Proceeds (this “**Agreement**”) is entered into effective as of September 9, 2014 (“**Effective Date**”) by and between the Successor Agency City of Concord (“**Successor Agency**”) and the City of Concord, a municipal corporation (“**City**”). The Successor Agency and the City are hereinafter collectively referred to as the “**Parties.**”

R E C I T A L S

A. Pursuant to authority granted under Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) (“**CRL**”), the former Redevelopment Agency of the City of Concord (“**Redevelopment Agency**”) had responsibility to implement the Central Concord Redevelopment Plan (“**Redevelopment Plan**”) in the Central Concord Redevelopment Project Area (the “**Project Area**”), originally approved by Ordinance No. 991 adopted on November 25, 1974 by the City Council of the City of Concord(the “**City Council**”).

B. Pursuant to Resolution No. 85-352 adopted by the Redevelopment Agency on November 19, 1985 (“**1985 Resolution**”), the Redevelopment Agency issued its Central Concord Redevelopment Project Tax Allocation Bonds, Series 1985 in the total original principal amount of \$72,180,000 (“**1985 Bonds**”).

C. Pursuant to Resolution No. 88-408 adopted by the Redevelopment Agency on May 10, 1988 (“**1988 Resolution,**” and together with the 1985 Resolution, “**Bond Resolutions**”), the Redevelopment Agency issued its Central Concord Redevelopment Project Tax Allocation Bonds, Series 1988-1, Series 1988-2 and Series 1988-3 (collectively, “**1988 Bonds,**” and together with the 1985 Bonds, “**Bonds**”) in the total original principal amount of \$92,422,662.59.

D. Pursuant to the Bond Resolutions, proceeds from the sale of the Bonds are required to be used solely for the purposes of redevelopment and in compliance with the requirements of the federal Tax Code further provided in the Tax Certificate executed by the Redevelopment Agency in connection with issuance of the Bonds, as further described in the Official Statements for the Bonds (collectively, “**Official Statements**”). The Bond Resolutions and Official Statements are on file with the City Clerk of the City of Concord.

E. Pursuant to Resolution No. 12-5 adopted by the City Council on January 24, 2012, the City agreed to serve as the Successor Agency to the Redevelopment Agency commencing on February 1, 2012 pursuant to Assembly Bill x1 26 (“**AB 26**”).

F. On August 7, 2013 the Department of Finance issued a finding of completion to the Successor Agency.

G. Health and Safety Code Section 34191.4(c) provides that a successor agency that has been issued a finding of completion by the Department of Finance may use proceeds of bonds issued before December 31, 2010 for the purposes for which the bonds were sold. Further, the Successor Agency may designate the use of and commit indebtedness obligation

proceeds that were derived from bonds issued for redevelopment purposes on or before December 31, 2010, and that remain available after the satisfaction of enforceable obligations that have been approved on a Recognized Obligation Payment Schedule (“ROPS”) and that are consistent with the bond obligation covenants (hereafter, “**Excess Bond Proceeds**”).

H. Health and Safety Code Section 34191.4(c) further provides that the expenditure of Excess Bond Proceeds must be listed separately on the ROPS.

I. The Redevelopment Plan provided for the installation of public improvements, including street lighting and landscape improvements, within the Project Area.

J. Now that the Successor Agency has received its Finding of Completion, the Parties desire to enter into this Agreement to allow the Successor Agency to transfer the Excess Bond Proceeds to the City and to require the City to use the Excess Bond Proceeds for the purposes identified in and consistent with the Bonds covenants, the Redevelopment Plan and the requirements of the CRL.

K. The execution of this Agreement was approved by the City Council acting in its capacity as the governing board of the City and in its capacity as the governing board of the Successor Agency by resolutions adopted on September 9, 2014.

L. The execution of this Agreement by the Successor Agency was approved by the Oversight Board by resolution adopted on _____, 2014.

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

A G R E E M E N T

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. Use of Excess Bond Proceeds. The City agrees that it shall use the Excess Bond Proceeds solely for the purposes identified in Recital I above, the projects identified in this Section 3, or, as determined by the City Council, for other infrastructure projects consistent with the Bonds covenants. Among other projects, the City agrees to use the Excess Bond Proceeds for the following projects: (a) the Todos Santos Plaza Archway Project, consisting of the installation of two archway structures over the pedestrian entrance walkways to Todos Santos Plaza, and (b) the Todos Santos Plaza Decorative Tree Lights Project, consisting of removal of existing nonfunctional tree lights located within the tree canopy and related appurtenances in 24 trees surrounding the Plaza and their replacement with LED decorative street lights.

4. Transfer of Excess Bond Proceeds. Within 120 days of the execution of this Agreement, the Successor Agency shall transfer the remaining Excess Bond Proceeds to the

City, and the City shall deposit such funds into an Excess Bond Proceeds Fund for City's use solely in accordance with the terms, conditions, and purposes set forth in this Agreement. Funds deposited into an Excess Bond Proceeds Fund shall not be commingled with any City funds. As of the Effective Date, the amount of Excess Bond Proceeds equals the sum of Three Hundred and Five Thousand Four hundred and Seven and 00/100 Dollars (\$305,407.00).

5. Bi-annual Report to Successor Agency. City shall provide Successor Agency and Oversight Board with a bi-annual written statement identifying the amount of Excess Bond Proceeds expended in the January through June and July through December six-month periods, the date of the expenditure, and a brief description of the projects funded with the Excess Bond Proceeds.

6. 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 the projects described in this Agreement, 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.

7. 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.

8. 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.

9. 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.

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

11. 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.

12. 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:

City of Concord

By: _____

Tim Grayson, Mayor

SUCCESSOR AGENCY:

City of Concord Successor Agency

By: _____

Valerie Barone, City Manager
City of Concord

ATTEST:

By: _____

Mary Rae Lehman, City Clerk

ATTEST:

By: _____

_____, Oversight
Board Clerk

APPROVED AS TO FORM:

By: _____

Mark Coon
City Attorney

1 **WHEREAS**, the Redevelopment Agency issued its Central Concord Redevelopment Project
2 Tax Allocation Bonds, Series 1988-1, Series 1988-2 and Series 1988-3 (collectively, the “1988
3 Bonds”) in the total original principal amount of \$92,422,662.59; and

4 **WHEREAS**, the 1988 Bonds were issued pursuant to Resolution No. 88-408 adopted May 10,
5 1988 (the “1988 Resolution”); and

6 **WHEREAS**, the 1985 Resolution and the 1988 Resolution require, respectively, that the 1985
7 Bonds and the 1988 Bonds (collectively, “Bonds”) proceeds be expended for redevelopment purposes
8 and in compliance with federal Tax Code requirements, as further described in the Official Statements
9 for the Bonds; and

10 **WHEREAS**, there are approximately \$305,407 in Excess Bond Proceeds from the issuances
11 of the Bonds remaining; and

12 **WHEREAS**, the Successor Agency and the City desire that the City use the Excess Bond
13 Proceeds for the following projects: (a) the Todos Santos Plaza Archway Project, consisting of the
14 installation of two archway structures over the pedestrian entrance walkways to Todos Santos Plaza,
15 (b) the Todos Santos Plaza Decorative Tree Lights Project, consisting of removal of existing
16 nonfunctional tree lights located within the tree canopy and related appurtenances in 24 trees
17 surrounding the Plaza and their replacement with LED decorative street lights, and (c) other projects
18 consistent with the Bonds covenants and the requirements of the Community; and

19 **WHEREAS**, the City desires to enter into an agreement with the Successor Agency to allow
20 the Successor Agency to transfer the remaining Excess Bond Proceeds to the City and to require the
21 City to use the Excess Bond Proceeds for such projects.

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1 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
2 **RESOLVE AS FOLLOWS:**

3 **Section 1.** The City Council hereby finds that the facts set forth in the recitals to this
4 Resolution are true and correct, and establish the factual basis for the City Council’s adoption of this
5 Resolution.

6 **Section 2.** Based on the foregoing recitals, the City Council hereby approves and authorizes
7 the Mayor or City Manager to execute the Agreement Regarding Expenditure of Excess Bond
8 Proceeds in the form attached to the staff report accompanying this Resolution, subject to minor,
9 technical changes approved by the City Attorney.

10 **Section 3.** The Mayor and City Manager or his designee are authorized and directed to
11 execute such additional instruments and to take such actions as are necessary to carry out the intent of
12 this Resolution.

13 **Section 4.** This resolution shall become effective immediately upon its passage and adoption.

14 **PASSED AND ADOPTED** by the City Council of the City of Concord on [month #, 2014],
15 by the following vote:

16 **AYES:** Councilmembers -

17 **NOES:** Councilmembers -

18 **ABSTAIN:** Councilmembers -

19 **ABSENT:** Councilmembers -

20 **I HEREBY CERTIFY** that the foregoing Resolution No. 14-70 was duly and regularly
21 adopted at a regular meeting of the City Council of the City of Concord on September 9, 2014.

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25 **APPROVED AS TO FORM:**

Mary Rae Lehman, CMC
City Clerk

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27 _____
Mark S. Coon
City Attorney

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD AS SUCCESSOR
TO THE REDEVELOPMENT AGENCY OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Authorizing and Approving an
Agreement Regarding Expenditure of Excess Bond
Proceeds for Projects Consistent With Bond
Covenants**

Resolution No. 14-776S

WHEREAS, the Redevelopment Dissolution Law (AB 1x 26, enacted June 28, 2011, as amended by AB 1484, enacted June 27, 2012) provided for creation of the Successor Agency (“Successor Agency”) to the former Redevelopment Agency of the City of Concord (“Redevelopment Agency”) and required the Successor Agency to expeditiously wind down the affairs of the Redevelopment Agency as directed by the oversight board created pursuant to Section 34179 of the California Health and Safety Code (“Oversight Board”); and

WHEREAS, following the successful completion of certain statutory prerequisites, the Successor Agency received a Finding of Completion from the State of California Department of Finance by letter dated August 7, 2013; and

WHEREAS, Health and Safety Code Section 34191.4(c) provides that once a finding of completion has been issued by the Department of Finance, the successor agency is authorized to use bond proceeds for the purposes for which the bonds were sold; and

WHEREAS, the Successor Agency may designate the use of and commit indebtedness obligation proceeds that were derived from indebtedness issued for redevelopment purposes on or before December 31, 2010, and that remain available after the satisfaction of enforceable obligations that have been approved on a Recognized Obligation Payment Schedule (“ROPS”) and that are consistent with the indebtedness obligation covenants (hereafter, “Excess Bond Proceeds”); and

WHEREAS, the Redevelopment Agency issued its Central Concord Redevelopment Project Tax Allocation Bonds, Series 1985 (the “1985 Bonds”) in the total original principal amount of \$72,180,000; and

WHEREAS, the 1985 Bonds were issued pursuant to Resolution No. 85-352 adopted November 19, 1985 (the “1985 Resolution”); and

WHEREAS, the Redevelopment Agency issued its Central Concord Redevelopment Project Tax Allocation Bonds, Series 1988-1, Series 1988-2 and Series 1988-3 (collectively, the “1988 Bonds”) in the total original principal amount of \$92,422,662.59; and

WHEREAS, the 1988 Bonds were issued pursuant to Resolution No. 88-408 adopted May 10, 1988 (the “1988 Resolution”); and

WHEREAS, the 1985 Resolution and the 1988 Resolution require, respectively, that the 1985 Bonds and the 1988 Bonds (collectively, “Bonds”) proceeds be expended for redevelopment purposes and in compliance with federal Tax Code requirements, as further described in the Official Statements for the Bonds; and

WHEREAS, there are approximately \$305,407 in Excess Bond Proceeds from the issuances of the Bonds remaining; and

WHEREAS, the Successor Agency and the City desire that the City use the Excess Bond Proceeds for the following projects: (a) the Todos Santos Plaza Archway Project, consisting of the installation of two archway structures over the pedestrian entrance walkways to Todos Santos Plaza, (b) the Todos Santos Plaza Decorative Tree Lights Project, consisting of removal of existing nonfunctional tree lights located within the tree canopy and related appurtenances in 24 trees surrounding the Plaza and their replacement with LED decorative street lights, and (c) other projects consistent with the Bonds covenants and the requirements of the Community Redevelopment Law; and

WHEREAS, the Successor Agency desires to enter into an agreement with the City to allow the Successor Agency to transfer the remaining Excess Bond Proceeds to the City and to require the City to use the Excess Bond Proceeds for such projects.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Concord, as Successor Agency to the Redevelopment Agency of the City of Concord, as follows:

Section 1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council’s adoption of this Resolution.

Section 2. Based on the foregoing recitals, the City Council hereby approves and authorizes the City Manager, following approval by the Oversight Board and Department of Finance, to execute the Agreement Regarding Expenditure of Excess Bond Proceeds in the form attached to the staff report accompanying this Resolution, subject to minor, technical changes approved by the City Attorney.

Section 3. The City Manager or his designee are authorized and directed to execute such additional instruments and to take such actions as are necessary to carry out the intent of this Resolution.

Section 4. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the by City Council of the City of Concord, as Successor Agency to the Redevelopment Agency of the City of Concord, on September 9, 2014, by the following vote:

AYES: Councilmembers -

NOES: Councilmembers -

ABSTAIN: Councilmembers -

ABSENT: Councilmembers -

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I HEREBY CERTIFY that the foregoing Resolution No. 14-776S was duly and regularly adopted at a regular meeting of the City Council of the City of Concord on September 9, 2014.

Joelle Fockler, CMC
Deputy City Clerk

APPROVED AS TO FORM:

Mark S. Coon
City Attorney