



1 agency as set forth in HSC § 34177.3 (b), subject to the obtaining the approval of its oversight  
2 board; and

3       **WHEREAS**, as a consequence of receiving its FOC on December 22, 2015, the Successor  
4 Agency may now utilize its Excess Bond Proceeds for their intended purposes, subject to the terms  
5 and limitations set forth in that certain Bond Expenditure Agreement between the Successor Agency  
6 and the City of San Bernardino (the “City”), which is attached hereto as Exhibit “A” (the “Bond  
7 Expenditure Agreement”); and

8       **WHEREAS**, the Successor Agency has Excess Bond Proceeds in the amount of \$6,045,430  
9 from the San Bernardino Joint Powers Financing Authority Tax Allocation Bonds Series 2010A (4<sup>th</sup>  
10 Street Corridor Project-Federally Taxable Recovery Zone Economic Development Bonds)(the  
11 2010A TABs”) and \$2,701,558 from the San Bernardino Joint Powers Financing Authority Tax  
12 Allocation Bonds Series 2010B (Northwest Redevelopment Project Area)(the “2010B TABs” and,  
13 together with the 2010 TABs, the “TABs”) together totaling \$8,746,988 that is to be transferred to  
14 the City to facilitate the management of proceeds of the TABs as more particularly set forth in the  
15 Bond Expenditure Agreement in conformity with covenants applicable to each of the TAB issues;  
16 and

17       **WHEREAS**, the Successor Agency does not have the technical capability of causing the  
18 development of capital projects; however, the City does have the requisite technical capability of  
19 causing the development of capital projects; and

20       **WHEREAS**, consistent with the foregoing recital, the Successor Agency desires to provide  
21 the Excess Bond Proceeds to the City for the purpose of enabling the City to use such funds in the  
22 manner consistent with the covenants applicable to the TABs; and

23       **WHEREAS**, the transfer of the Excess Bond Proceeds to the City for use in the manner  
24 consistent with the covenants applicable to the TABs is evidenced in the Bond Expenditure  
25 Agreement between the Successor Agency and the City, attached hereto as Exhibit “A”; and

26       **WHEREAS**, the Bond Expenditure Agreement will permit the City to spend available  
27 Excess Bond Proceeds received or retained on any project, program, or activity authorized by the  
28 City including projects that are described in the Official Statement for the TABs, as delineated

1 within the Bond Expenditure Agreement, or as otherwise allowable under the tax certificate  
2 executed and delivered for all or a portion of the TABs; and

3       **WHEREAS**, on March 21, 2016, the Successor Agency and the City entered into the Bond  
4 Expenditure Agreement, subject to approvals by the Oversight Board and California Department of  
5 Finance (the “DOF”); and

6       **WHEREAS**, consistent with the foregoing, this Resolution approves the Bond Expenditure  
7 Agreement between the Successor Agency and the City, which in order to be effective will require  
8 separate approvals by the Oversight Board and DOF; and

9       **WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have  
10 been met.

11       **NOW, THEREFORE, BE IT RESOLVED** by the Oversight Board for the Successor  
12 Agency to the Redevelopment Agency of the City of San Bernardino, as follows:

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

15       **Section 2.**     The Bond Expenditure Agreement between the Successor Agency and the  
16 City, which is attached hereto as Exhibit “A”, is approved.

17       **Section 3.**     The City Manager, as the Successor Agency’s Executive Director or  
18 designee, is authorized to take such actions and execute such documents as are necessary to  
19 effectuate the intent of this Resolution.

20       **Section 4.**     This Resolution shall take effect upon the date of its adoption and its  
21 effectiveness is subject to approval by DOF.

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2 **RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR**  
3 **AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN**  
4 **BERNARDINO APPROVING A BOND EXPENDITURE AGREEMENT**  
5 **BETWEEN THE SUCCESSOR AGENCY TO THE REDEVELOPMENT**  
6 **AGENCY OF THE CITY OF SAN BERNARDINO AND THE CITY OF SAN**  
7 **BERNARDINO AND APPROVING CERTAIN RELATED ACTIONS**

8 PASSED, APPROVED AND ADOPTED THIS 4th day of April 2016, by the following vote:

Board Members	Ayes	Nays	Abstain	Absent
HEADRICK				X
HILL	X			
MACIAS-HARRISON				X
MORRIS	X			
O'TOOLE		X		
SMITH	X			
TORRES	X			

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16  
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18 \_\_\_\_\_  
19 Lisa Connor, Secretary

20 The foregoing Resolution is hereby approved this 4<sup>th</sup> day of April, 2016.

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23 \_\_\_\_\_  
24 James P. Morris, Chairman  
25 Oversight Board for the  
26 Successor Agency to the Redevelopment  
27 Agency of the City of San Bernardino  
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**BOND EXPENDITURE AGREEMENT  
BETWEEN THE  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
OF THE CITY OF SAN BERNARDINO  
AND THE  
CITY OF SAN BERNARDINO**

**(See Attachment)**

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## BOND EXPENDITURE AGREEMENT

This Bond Expenditure Agreement (the "Agreement") is entered into on March 21, 2016, by and between the City of San Bernardino, a municipal corporation (the "City") and the Successor Agency to the Redevelopment Agency of the City of San Bernardino (the "Successor Agency"). The City and the Successor Agency are collectively referred to herein as "Parties" or individually referred to as a "Party".

### RECITALS

**WHEREAS**, pursuant to Health and Safety Code (the "HSC") § 34172 (a) (1), the Redevelopment Agency of the City of San Bernardino was dissolved February 1, 2012; and

**WHEREAS**, consistent with the provisions of the HSC, on January 9, 2012 the Mayor and Common Council of the City of San Bernardino elected to serve in the capacity of the Successor Agency to the Redevelopment Agency of the City of San Bernardino (the "Successor Agency"); and

**WHEREAS**, the Oversight Board for the Successor Agency (the "Oversight Board") has been established pursuant to HSC § 34179 to assist in the wind-down of the dissolved redevelopment agency; and

**WHEREAS**, HSC § 34191.4 (c) allows a successor agency that has received a Finding of Completion (the "FOC") to use bond proceeds from bonds issued prior to 2011 and a percentage of proceeds from bonds issued between January 1, 2011 and June 27, 2011 for purposes for which the bonds were sold, provides that such proceeds in excess of amounts needed to satisfy approved enforceable obligations shall be expended in a manner consistent with the original bond covenants, and further provides that such expenditures shall constitute excess bond proceeds (the "Excess Bond Proceeds") obligations that shall be listed separately on a successor agency's Recognized Obligation Payment Schedule (the "ROPS"); and

**WHEREAS**, the HSC provides for a cooperative relationship between cities and their redevelopment agencies, as well as their successor agencies who have assumed the duties and obligations of the former redevelopment agencies; and

**WHEREAS**, HSC § 33220 authorizes a city to aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects; and

**WHEREAS**, HSC § 34178 (c) allows a successor agency and its sponsoring city to enter into agreements for the purpose of conducting the work of winding-down the former redevelopment agency as set forth in HSC § 34177.3 (b), subject to the obtaining the approval of its oversight board; and

**WHEREAS**, as a consequence of receiving its FOC on December 22, 2015, the Successor Agency may now utilize its Excess Bond Proceeds for their intended purposes; and

**WHEREAS**, the Successor Agency has Excess Bond Proceeds in the amount of \$6,045,430 from the San Bernardino Joint Powers Financing Authority Tax Allocation Bonds Series 2010A (4<sup>th</sup> Street Corridor Project-Federally Taxable Recovery Zone Economic Development Bonds)(the

"2010A TABs") and \$2,701,558 from its San Bernardino Joint Powers Financing Authority Tax Allocation Bonds Series 2010B (Northwest Redevelopment Project Area)(the "2010B TABs, and together with the 2010B TABs, the "TABs") that together total \$8,746,988 that are to be transferred to the City of San Bernardino (the "City") to facilitate the handling of proceeds of the TABs as more particularly provided herein in conformity with the covenants applicable to each of the TAB issues; and

**WHEREAS,** the Successor Agency does not have the technical capability of causing the development of capital projects; however, the City does have the requisite technical capability of causing the development of capital projects; and

**WHEREAS,** pursuant to this Agreement, the Successor Agency desires to provide the Excess Bond Proceeds to the City for the purpose of enabling the City to use such funds in the manner consistent with the covenants applicable to the 2010A TABs and, as further set forth in Section 2 below, a portion of the 2010 TABs; and

**WHEREAS,** the Parties intend that this Agreement shall constitute an excess bonds proceeds obligation within the meaning of HSC § 34191.4 (c) to be paid from Excess Bond Proceeds; and

**WHEREAS,** the Successor Agency has listed this Agreement inclusive of the requirement to transfer Excess Bond Proceeds to the City on its ROPS 16-17 A & B as an obligation to be funded with Excess Bond Proceeds.

**NOW, THEREFORE,** in consideration of the mutual promises, covenants and conditions set forth hereinafter, the parties agree as follows:

**1. Incorporation.** The foregoing Recitals are true and correct and are a substantive part of this Agreement.

**2. Successor Agency's Obligations:** Subsequent to the Effective Date, as defined below, the Successor Agency shall: i) transfer to the City all of the Excess Bond Proceeds from the TABs, plus all interest accrued thereon up to the date of such transfer; and ii) assign to the City all duties and responsibilities with respect to the administration of any capital projects that are funded with Excess Bond Proceeds, including without limitation, as set forth therefor in the indenture or indentures of trust under which the TABs were issued.

**3. City's Obligations:** The City shall have the following obligations under this Agreement:

a) **Retention of Excess Bond Proceeds:** The City shall accept, hold, and disburse Excess Bond Proceeds transferred to the City pursuant to this Agreement, including current Excess Bond Proceeds and future Excess Bond Proceeds. The City shall retain any Excess Bond Proceeds that it receives and shall use such funds for uses consistent with applicable bond covenants.

b) **Use of Excess Bond Proceeds:** The City may spend Excess Bond Proceeds received or retained under this Agreement on any project, program, or activity authorized by the Mayor and the Common Council of the City (the "Selected Projects"). The Selected Projects may include

projects that are described in the Official Statement for the TABs, as depicted on Exhibit "A" hereto, or as otherwise allowable under the tax certificate executed and delivered for all or a portion of the TABs. Expenditure of proceeds from the 2010B TABs shall be subject to HSC § 34191.4(c) (2) as it may be amended from time to time. Further, the City must spend the Excess Bond Proceeds consistent with the original bond covenants applicable to the particular Excess Bond Proceeds, and must comply with all requirements of the federal tax law and all applicable requirements of the HSC as to the use of such funds. The City shall be solely responsible for ensuring that Excess Bond Proceeds are maintained and spent in accordance with bond covenants and other applicable laws.

The City shall indemnify and defend the Successor Agency, and its officers and agents, against, and shall hold the Successor Agency, and its officers and agents, harmless from, any claims causes of action, or liabilities arising from any use of Excess Bond Proceeds by the City that is inconsistent with or unallowable pursuant to the applicable bond covenant or the failure of the City to ensure that Excess Bond Proceeds are used in accordance with bond covenants, federal tax law, and the HSC.

The City assumes all contracts, if any, entered into by the Successor Agency or the former redevelopment agency related to activities to be funded by Excess Bonds Proceeds, with the exception of those contracts retained by the Successor Agency relating to Enforceable Obligations. The City shall perform its obligations hereunder, and under such assumed contracts, in accordance with the applicable provisions of federal, state and local laws, including the obligation to comply with environmental laws such as CEQA, and shall timely complete the work required for each project.

c) Investment of bond proceeds: Until expended, City will cause proceeds of the 2010B TABs to be invested in tax-exempt obligations.

**4. Entire Agreement; Waivers; and Amendments:**

a) This Agreement constitutes the entire understanding and agreement of the Parties with respect to the transfer and use of Excess Bond Proceeds. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to the subject matter of this Agreement.

b) This agreement is intended solely for the benefit of the City and the Successor Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Successor Agency, there shall be no third party beneficiaries under this agreement.

c) All waivers of the provisions of the Agreement and all amendments to this Agreement must be in writing and signed by the authorized Representative of the Parties.

**5. Severability:** If any term, provisions, covenant or condition to this Agreement is held by a court of competent jurisdiction to be invalid, void of unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability. 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.



6. **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 this agreement.

7. **Effective Date:** This Agreement shall only be effective subsequent to its approval by the Successor Agency's Oversight Board and the California Department of Finance.

8. **Governing Law:** This Agreement shall be construed and interpreted according to the laws of the State of California.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates indicated below.

**CITY OF SAN BERNARDINO**

By: Mark Scott  
Mark Scott, City Manager

Date: 3-31-16

**SUCCESSOR AGENCY TO THE  
REDEVELOPMENT AGENCY OF THE CITY  
OF SAN BERNARDINO**

By: R. Carey Davis  
R. Carey Davis, Chairman

Date: 3/30/2016

**APPROVED AS TO FORM:**

By: Gary D. Saenz  
Gary D. Saenz, City Attorney

ATTEST:

By: Georgeann Hanna  
Georgeann Hanna, City Clerk

**EXCERPTS FROM THE OFFICIAL STATEMENTS  
FOR THE  
2010A AND 2010B TAX ALLOCATION BONDS  
DESCRIBING THE PROJECT**

**Project Description for the 2010A Tax Allocation Bonds (taken from page 3 from the Official Statement)**

The 4<sup>th</sup> Street is designated as the "4<sup>th</sup> Street Corridor" in Downtown San Bernardino from "E" Street west to "H" Street and from 2<sup>nd</sup> street north to 5th Street. 4<sup>th</sup> Street was formerly the major access route to the Interstate-215 Freeway ("I-215"). The California Department of Transportation ("Caltrans") currently has underway I-215 widening and construction and reconfiguration of on- and off-ramps to the I-215. Due to the closure of the off-ramps at this location, the Agency plan for this 3 block areas is to limit 4<sup>th</sup> Street to 2 travel lanes with pedestrian friendly walking areas and limited vehicular access. The Agency proposes to alter the width of the streets to remove 2 travel lanes plus the current curb-side parking and install decorative paving stones and other amenities that will denote this area as the "Theater District." The "Theater District" is anchored by the historic 1,760 seat California Theatre constructed in 1928 and the Agency owned 20-plex theater facility.

The projects the Agency intends to finance with the proceeds of the Bonds are as follows:

<u>Items</u>	<u>Estimated Cost</u>
4 <sup>th</sup> Street from E Street to H Street - Redesign/construct 4 <sup>th</sup> Street to 2 travel lanes with pedestrian friendly walking areas, limited vehicular access, restriping, and streetscape including, but not limited to: landscaping, medians, lighting, signage, signalization, public areas, water features.	\$2,000,000
5 <sup>th</sup> Street from E Street to H Street - Freeway gateway and streetscape including, but not limited to: landscaping, medians, lighting, signage, signalization, public areas, water features.	\$600,000
Court Street from E Street to Arrowhead Avenue - Streetscape including, but not limited to: landscaping, medians, lighting, signage, signalization, public areas, water features.	\$450,000
E Street from 5 <sup>th</sup> Street to 2 <sup>nd</sup> Street - Streetscape including, but not limited to: landscaping, medians, lighting, signage, signalization, public areas, water features.	\$400,000
F Street - 5 <sup>th</sup> Street to 4 <sup>th</sup> Street - Streetscape including, but not limited to: landscaping, medians, lighting, signage, signalization, public areas, water features.	\$400,000
Streetscape 2 <sup>nd</sup> Street from I-215 to E Street - Freeway gateway and streetscape including, but not limited to: landscaping, medians, lighting, signage, signalization, public areas, water features.	\$650,000
Theater Square - public areas, utilities, water features development pads.	\$650,000
Temporary Bus Facility Infrastructures - streetscape, on-site vehicular infrastructure; public building renovations.	\$400,000
Convention Center - streetscape, utilities, public areas.	\$300,000
Reader Board Sign.	\$900,000

Various Northwest Redevelopment Project Area infrastructure projects.	\$950,000
Contingency (unused funds to Northwest Redevelopment Project Area).	\$550,000
<b>Total:</b>	<b>\$8,250,000</b>

**Project Description for the 2010B Tax Allocation Bonds (taken from page 3 from the Official Statement)**

The Project is expected to include various infrastructure improvements throughout the Project Area. The projects the Agency intends to finance with the proceeds of the Bonds are as follows:

<u>Items</u>	<u>Estimated Cost</u>
Various Neighborhood street light and street construction projects.	\$1,500,000
Baseline at California -- right-of-way easement, curb/gutter/sidewalk.	\$350,000
West Highland Corridor Improvements between Macy Street and California Street -- the design/reconstruction of street including storm drains, sewer, streetscapes, landscaping, upgrade signage and signalization, utilities, curb and gutter, sidewalk; façade improvement; demolition of buildings; clearance of parcels along the south side of West Highland.	\$800,000
I-210/State Street Corridor Infrastructure Improvements from State Street exit to Lytle Creek -- the design/reconstruction of street including storm drains, sewer, streetscapes, landscaping, upgrade signage and signalization, utilities, curb and gutter, sidewalk; other development incentives.	\$950,000
Various land acquisition/assembly projects, demolition of blighted properties, etc.	\$2,300,000
Southeast corner of Highland and Medical Center Drive -- sidewalk, curb and gutter; additional street lighting; undergrounding of utilities; upgrade to mains sewer connection.	\$830,000
Medical Center Drive South of the Magnolia at Highland Project -- sidewalk, curb and gutter; additional street lighting; undergrounding of utilities; upgrade to main sewer connection.	\$450,000
Highland Avenue west of Medical Center Drive -- the design/reconstruction of street including storm drains, sewer, streetscapes, landscaping, upgrade signage and signalization, utilities, curb and gutter sidewalk.	\$1,000,000
<b>Total:</b>	<b>\$8,180,000</b>

**Note:** The total amount of the listed projects exceeds the amount of net bond proceeds for both TABs. Accordingly, the bond proceeds were not considered the sole source of funding for the sum of the listed projects. The bond documents do not identify the supplemental funding sources.