

RESOLUTION NO. 2012 – 18

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AUTHORIZING THE SUCCESSOR AGENCY'S ENTERING A THIRD
AMENDMENT TO THE AGREEMENT FOR LEGAL SERVICES
BY BEST BEST & KRIEGER, LLP, FOR THE CYAC LEGAL
CHALLENGE DEFENSE TO INCREASE THE NOT TO EXCEED
AMOUNT BY \$45,000 FOR A TOTAL AMOUNT OF \$409,000

WHEREAS, on November 23, 2010, the Community Development Commission of the City of National City ("CDC") adopted Resolution No. 2010-265 approving an Agreement between the City of National City, the CDC, and Best Best & Krieger, LLP ("BB&K"), to provide legal defense services regarding the Community Youth Athletic Center ("CYAC") litigation in the not to exceed amount of \$160,000; and

WHEREAS, on October 18, 2011, the CDC (now the Successor Agency) adopted Resolution No. 2011-233 approving the First Amendment to the Agreement that increased the not to exceed amount by \$134,000, bringing the total not to exceed amount to \$294,000; and

WHEREAS, on May 15, 2012, the Successor Agency adopted Resolution No. 2011-10 authorizing the Second Amendment to the Agreement in the amount of \$70,000 for the on-going appeal process, for a total not-to-exceed amount of \$364,000; and

WHEREAS, on October 30, 2012, the Successor Agency adopted Resolution No. 2012-25 authorizing the Successor Agency, subject to approval of the Oversight Board, to enter the Third Amendment to the Agreement in an amount of \$45,000 for the on-going appeal process, for a total amount of \$409,000; and

WHEREAS, Health & Safety Code Section 34177(f) requires the Successor Agency to enforce all former CDC rights for the benefit of taxing entities and, pursuant to this obligation, Section 34177.3(b) authorizes the Successor Agency to create enforceable obligations to conduct the work of winding down the Successor Agency, including hiring legal counsel; and

WHEREAS, the Third Amendment to the Agreement constitutes an "enforceable obligation" as defined in Health & Safety Code Section 34171(d)(1)(F) in that it is permissible pursuant to Section 34177.3(b) for the Successor Agency to create agreements relating to hiring legal counsel and constitutes a contract necessary for the administration or operation of the Successor Agency; and

WHEREAS, the Third Amendment must be approved by the Oversight Board to the Successor Agency by resolution prior to being effective.

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

1. The Oversight Board has received and heard all oral and written objections to matters pertaining to the Third Amendment to the Agreement, and all such oral and written objections are hereby overruled.

2. The Oversight Board hereby finds and determines that the foregoing recitals are true and correct and are incorporated herein. The Oversight Board finds that the Third Amendment to the Agreement is consistent with the Successor Agency's obligations and duties pursuant to Health and Safety Code Sections 34177(f) and 34177.3(b). The Oversight Board further finds that the Third Amendment to the Agreement is beneficial to the holders of enforceable obligations and the taxing entities.
3. The Oversight Board hereby approves the Third Amendment to the Agreement with Best Best & Krieger, LLP ("BB&K"), to increase the not to exceed amount by \$45,000, for a total not to exceed amount of \$409,000, to cover charges for continuing legal defense services regarding the Community Youth Athletic Center ("CYAC") litigation.
4. The Executive Director, or his/her designee, of the Successor Agency is hereby authorized and directed to execute the Third Amendment to the Agreement on behalf of the Successor Agency and to sign all other necessary documents, on behalf of the Successor Agency, first approved in writing by the Successor Agency General Counsel and to take all other actions necessary to implement and carry out the purposes of the Third Amendment to the Agreement and this Resolution.
5. The obligations of the Successor Agency contained in the Third Amendment to the Agreement shall, if and when required by law, be included in the Successor Agency's future Recognized Obligations Payment Schedules. If desired by the Successor Agency, the Successor Agency is hereby authorized, without further need for Oversight Board approval, to amend the Third ROPS to include the Third Amendment to the Agreement.
6. The Successor Agency determines that this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.
7. Notice of this Resolution shall be transmitted to the Department of Finance by electronic means and shall take effect at the time provided in Health and Safety Code Section 34179(h).

--- Signature Page to Follow ---

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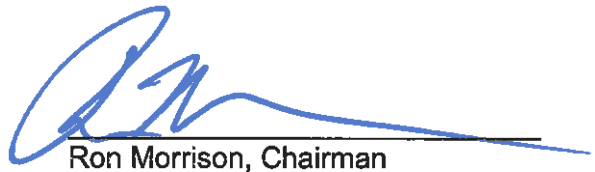
The foregoing resolution was duly and regularly adopted at a regular meeting of the Oversight Board for the Successor Agency to Redevelopment Agency for the City of National City held on the 5th day of December, 2012, by the following vote:

Ayes: AGUIRRE, CARSON, DESROCHERS, MORRISON, PERRI

Noes:

Absent: DONALDSON, HENTSCHKE

Abstain



Ron Morrison, Chairman

ATTEST:



Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:



Oversight Board Counsel
Michael Houston, Esq.
Cummins & White, LLP