

HOUSING BOND PROCEEDS EXPENDITURE AGREEMENT

This **HOUSING BOND PROCEEDS EXPENDITURE AGREEMENT** (“Agreement”) is entered into as of January 23, 2018, by and between the **RIALTO HOUSING AUTHORITY**, a public body, corporate and politic (“Housing Authority”), and the **SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF RIALTO**, a public body, corporate and politic (“Successor Agency”).

RECITALS

A. The Housing Authority is a public body, corporate and politic, organized and operating under the Housing Authorities Law, Health and Safety Code Section 34200, *et seq.*, of the State of California.

B. The Successor Agency is a public body, corporate and politic, organized and operating under Part 1.85 of Division 24 of the Dissolution Act (as defined in Recital D below).

C. The Redevelopment Agency of the City of Rialto (“former Agency”) previously was a California public body, corporate and politic, duly formed by the City Council of the City of Rialto (“City Council”) and was organized, existed and exercised the powers of a community redevelopment agency under the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.*

D. Assembly Bill x1 26 (“AB x1 26”), effective on June 28, 2011, added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code and. Such laws were modified, in part, and determined constitutional by the California Supreme Court in the petition *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 (“*Matosantos Decision*”). AB x1 26 and the *Matosantos Decision* caused the dissolution of all redevelopment agencies and winding down of the affairs of former redevelopment agencies. Thereafter, such laws were amended further by Assembly Bill 1484 (“AB 1484”), effective on June 27, 2012 (together AB x1 26, the *Matosantos Decision*, and AB 1484 are referred to as the “Dissolution Act”). All statutory references herein are to the Dissolution Act unless otherwise stated.

E. As of February 1, 2012, the former Agency became a dissolved community redevelopment agency pursuant to the Dissolution Act.

F. As of and on and after February 1, 2012, the Successor Agency is performing its functions as the successor agency under the Dissolution Act to administer the enforceable obligations of the former Agency and is engaged in activities necessary and appropriate to wind down the affairs of the former Agency, all subject to the review and approval by a seven-member “Oversight Board” formed thereunder.

G. Section 34191.4(c) of the Dissolution Act allows a successor agency that has received a finding of completion to use bond proceeds from bonds issued prior to 2011 for the 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 obligations” that shall be listed separately on the successor agency’s Recognized Obligation Payment Schedule (“ROPS”).

H. Pursuant to Health and Safety Code Section 34176, the City Council designated the Housing Authority as the housing successor to the former Agency. In its capacity as housing successor, pursuant to Health and Safety Code Section 34176(g), the Housing Authority has the authority to designate the use of and commit indebtedness obligation proceeds that are derived from indebtedness obligations that were issued for the purposes of affordable housing prior to January 1, 2011, and were backed by the Low and Moderate Income Housing Fund.

I. The Successor Agency has and will have proceeds of its Redevelopment Agency of the City of Rialto, Tax Allocation Housing Set-Aside Bonds, (Merged Project Area) 2008 Series B Taxable that are not otherwise obligated for a project or other enforceable obligation ("Excess Bond Proceeds").

J. The Successor Agency desires to transfer its Excess Bond Proceeds to the Housing Authority to enable the Housing Authority to use such Excess Bond Proceeds in a manner consistent with the original bond covenants and to undertake projects and programs that were not previously funded and obligated by the Successor Agency, the former Agency or the Housing Authority. The Housing Authority has adopted a spending plan for using such Excess Bond Proceeds ("Bond Spending Plan") to advance the Housing Authority's community development goals while maximizing fiscal and social benefits flowing to the taxing entities from successful development. The Housing Authority Board and Successor Agency Board have found that the use of Excess Bond Proceeds in accordance with the Bond Spending Plan is in accordance with Health and Safety Code Section 34176 and the covenants set forth in the former Agency's bond documents. The Oversight Board has determined that the expenditure of Excess Bond Proceeds in accordance with this Agreement will benefit the affected taxing entities and is consistent with the former Agency's bond covenants and has approved the execution of this Agreement and the transfer of Excess Bond Proceeds to the Housing Authority for the purposes described herein.

K. The parties intend that this Agreement shall constitute an excess bond proceeds obligation within the meaning of Health and Safety Code Section 34191.4(c)(2)(A) to be paid from Excess Bond Proceeds. The Successor Agency (1) has listed the transfer of **\$544,144** of Excess Bond Proceeds to the Housing Authority on its ROPS 18-19 (Item # 199) for fiscal year 2018-19 for July 1, 2018 through June 30, 2019, and (2) shall list the transfer of any remaining Excess Bond Proceeds to the Housing Authority on future ROPS to the extent available after payment of enforceable obligations, for expenditure by the Housing Authority in accordance with this Agreement and the Bond Spending Plan. The effectiveness of this Agreement shall be subject to approval by the Oversight Board and the California Department of Finance ("DOF").

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Recitals.** The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement.

2. **Successor Agency Obligations.** The Successor Agency shall have the following obligations under this Agreement:

2.1 **Current Excess Bond Proceeds.** Promptly upon approval of this Agreement by DOF, the Successor Agency shall transfer to the Housing Authority Excess Bond Proceeds currently held by the Successor Agency the amount of \$544,144.

2.2 Future Excess Bond Proceeds. The Successor Agency shall transfer to the Housing Authority all future Excess Bond Proceeds held or received by the Successor Agency. Such future Excess Bond Proceeds shall include, without limitation, (1) Excess Bond Proceeds that become available in the form of rents, sale proceeds, loan repayments, or other revenues that are generated by properties or other assets acquired and/or improved with Excess Bond Proceeds and (2) any other funds held by the Successor Agency that qualify as Excess Bond Proceeds under this Agreement.

The parties intend that payments of future Excess Bond Proceeds be made to the Housing Authority as soon as possible after such Excess Bond Proceeds become available. The transfer of future Excess Bond Proceeds to the Housing Authority shall be made pursuant to an approved ROPS within 30 days of the commencement of the relevant ROPS period. The Successor Agency shall be responsible for ensuring that payments of future Excess Bond Proceeds to the Housing Authority, as such funds become available, are included on the next possible ROPS.

2.3 Projects Funded By Excess Bond Proceeds. The Successor Agency assigns to the Housing Authority all responsibilities in relation to the administration of any projects or programs funded by Excess Bond Proceeds.

3. Housing Authority Obligations. The Housing Authority shall have the following obligations under this Agreement:

3.1 Excess Bond Proceeds. The Housing Authority shall accept, hold, and disburse Excess Bond Proceeds transferred to the Housing Authority by the Successor Agency under this Agreement, including current Excess Bond Proceeds and future Excess Bond Proceeds. The Housing Authority shall retain any Excess Bond Proceeds that it receives, such as revenue generated from properties acquired or improved with Excess Bond Proceeds, and shall use such funds for uses consistent with applicable bond covenants.

The Housing Authority may spend Excess Bond Proceeds received or retained under this Agreement on any project, program, or activity authorized under the Bond Spending Plan. Notwithstanding anything to the contrary in this Agreement or the Bond Spending Plan, the Housing Authority shall spend Excess Bond Proceeds consistent with the original bond covenants applicable to the particular Excess Bond Proceeds. The Housing Authority shall be solely responsible for ensuring that Excess Bond Proceeds are maintained and spent in accordance with applicable bond covenants and laws. The Housing Authority may transfer funds between approved projects, programs and activities.

The Housing Authority shall perform its obligations hereunder 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 commenced by the Housing Authority pursuant to this Agreement and the Bond Spending Plan.

3.2 Bond Spending Plan. The Housing Authority shall be solely responsible for maintaining and implementing the Bond Spending Plan (see Attachment A). The Housing Authority may amend the Bond Spending Plan as the Housing Authority deems necessary in its sole discretion. Any amendments to the adopted Bond Spending Plan will consider uses that advance the Housing Authority's community development goals while maximizing fiscal and social benefits flowing to the taxing entities from successful development. Notwithstanding any contrary provision hereof, unless the Housing Authority expressly agrees otherwise, the Housing Authority shall not be obligated to

provide funding for any program or project in an amount exceeding the Excess Bond Proceeds provided to the Housing Authority pursuant to this Agreement.

4. **Entire Agreement; Waivers; And Amendments.**

4.1 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.

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

4.3 All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the authorized representatives of the parties.

5. **Severability.** If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or 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. **Default.** If either party fails to adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform shall be in default hereunder. In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this contract, including without limitation the right to sue for damages for breach of contract or to seek specific performance. The rights and remedies of the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party.

7. **Binding On Successors.** This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law.

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 this Agreement.

IN WITNESS WHEREOF, the undersigned parties have executed this Housing Bond Proceeds Expenditure Agreement as of the date first above written.

“HOUSING AUTHORITY”

RIALTO HOUSING AUTHORITY,
a public body, corporate and politic

By: _____
Deborah Robertson, Chairperson

ATTEST:

Barbara McGee, Housing Authority Secretary

“SUCCESSOR AGENCY”

**SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY
OF THE CITY OF RIALTO**

By: _____
Deborah Robertson, Chairperson

ATTEST:

Barbara McGee, Successor Agency Secretary

ATTACHMENT A
Bond Spending Plan

Excess Bond Proceeds \$544,144 2008 B, and as approved in ROPS 18-19 in Item 199, may be used for one or more affordable housing projects in Rialto, including for one or more of the following sites considered as part of an exclusive right to negotiate agreement dated May 14, 2016 with National Community Renaissance and Related California:

- **Riverside Avenue and Rialto Avenue Site.** Situated at the northeast corner of Riverside Avenue and Rialto Avenue on a 1.7-acre site owned by the RSA and the RHA.
- **Bonnie View Avenue at South Metrolink Station.** Situated on the north side of Bonnie View Drive, just west of Riverside Avenue and south of the Metrolink station on a 2.6 acre site consisting of two vacant parcels.
- **Rialto/Palm Avenue at North Metrolink Station.** Situated on the north side of Rialto Avenue, between Palm Avenue and Orange Avenue on a site of 1.24 acres consisting of several parcels owned by the RHA, SA, and the City.

In addition, the Rialto Housing Authority may use Excess Bond Proceeds for other qualified affordable housing project in Rialto.

Excess Bond Proceeds may be used to pay for Housing Authority staff, consultants, or legal costs; property acquisitions; pre-development design costs; construction; and/or permanent project financing.