RESOLUTION NO. SA 2014-002

RESOLUTION OF THE SUCCESSOR AGENCY TO THE
COMMUNITY REDEVELOPMENT AGENCY OF ATASCADERO
AUTHORIZING A MASTER AGREEMENT BETWEEN THE CITY
OF ATASCADERO AND THE SUCCESSOR AGENCY OF ATASCADERO
TO TRANSFER EXCESS LEASE REVENUE BOND PROCEEDS TO THE
CITY FOR BOND-ELIGIBLE PURPOSES

WHEREAS, the Successor Agency is a public body corporate and politic, organized and
operating under Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, and
the successor for the former Community Redevelopment Agency of the City of Atascadero
(former Agency) that was previously a community redevelopment agency organized and existing
pursuant to the Community Redevelopment Law, Health and Safety Code Section 33000, et seq.
(“CRL”); and

WHEREAS, the City of Atascadero (City) is a municipal corporation organized and
operating under the laws of the State of California; and

WHEREAS, the Successor Agency received its Finding of Completion under Health and
Safety Code Section 34179.7 from the California Department of Finance by letter dated March 8,
2013; and

WHEREAS, Health and Safety Code Section 34191.4(c) allows a successor agency that
has received a finding of completion to use bond proceeds from bonds issued prior to 2011 for
any purposes for which the bonds were sold; and

WHEREAS, the Successor Agency has “excess” bond proceeds, i.e., pre-2011 lease
revenue bond proceeds that are not otherwise obligated for a project and are restricted to bond-
eligible uses; and

WHEREAS, the Successor Agency wishes to use such proceeds for redevelopment
purposes consistent with bond covenants; and

WHEREAS, Community Redevelopment Law (Health and Safety Code Section 33000,
et seq.) provides for a cooperative relationship between redevelopment agencies, and their
successor agencies, and cities; and

WHEREAS, Community Redevelopment Law (Health and Safety Code Section
33220(e)) authorizes a local public agency to enter into an agreement with a redevelopment
agency, and its successor agency, to further redevelopment purposes; and

WHEREAS, the Successor Agency desires to commit to fund the City to undertake
redevelopment activities in support of projects and programs eligible for redevelopment funding,
which were not previously funded and obligated by the Successor Agency or the City, using excess lease revenue bond proceeds in a manner consistent with the original bond covenants; and

WHEREAS, the City and the Successor Agency desire to enter into a Master Agreement to govern funding to the City for the costs of those projects and programs from current and future excess lease revenue bond proceeds; and

WHEREAS, Community Redevelopment Law (Health and Safety Code Sections 33445 and 33679) authorizes a redevelopment agency, and its successor agency, to pay for the acquisition and development costs of publicly-owned buildings, facilities and improvements, if certain findings are made; and

WHEREAS, Health and Safety Code Section 34177(l), as amended, requires a successor agency to prepare a Recognized Obligation Payment Schedule (“ROPS”) listing the former agency’s recognized enforceable obligations, payment sources, and related information for each six month fiscal period; and

WHEREAS, Health and Safety Code Section 34191.4(c)(2)(A) requires that excess bond obligations be listed separately on a successor agency’s ROPS; and

WHEREAS, the Successor Agency will list the Master Agreement on future ROPS as an obligation against excess lease revenue bond proceeds;

NOW, THEREFORE, BE IT RESOLVED, by the Successor Agency of the Community Redevelopment Agency of Atascadero:

Section 1. The Successor Agency Board hereby authorizes the Successor Agency Executive Director to negotiate and execute a Master Agreement (Exhibit A) with the City of Atascadero to transfer excess lease revenue bond proceeds to the City to fund redevelopment projects and programs not previously funded and obligated by the Successor Agency or the City, consistent with the bond covenants, in furtherance of the purposes of redevelopment under the California Community Redevelopment Law.

Section 2. The Successor Agency Executive Director or his or her designee is authorized to transfer excess lease revenue bond proceeds from the Successor Agency to the City under the Master Agreement, including any excess bond proceeds currently held by the Successor Agency and any future excess bond proceeds received or held the Successor Agency.

Section 3. The Master Agreement shall be reviewed and approved by the Counsel for the Successor Agency as to form and legality, and copies shall be placed on file with the Successor Agency Secretary.

Section 4. The Successor Agency Executive Director or his or her designee is authorized to take other action with respect to the Master Agreement consistent with this Resolution and its basic purposes.
PASSED AND ADOPTED at a regular meeting of the Successor Agency Board held on the 12th day of August, 2014.

On motion by Mayor Pro Tem Sturtevant and seconded by Council Member Kelley, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES: Council Members Fonzi, Kelley, Moreno, Mayor Pro Tem Sturtevant and Mayor O’Malley

NOES: None

ABSENT: None

ADOPTED: August 12, 2014

SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT AGENCY OF ATASCADERO

By:

Tom O’Malley, Mayor

ATTEST:

Marcia McClure Torgerson, C.M.C., City Clerk

APPROVED AS TO FORM:

Brian Pierik, City Attorney
MASTER AGREEMENT REGARDING
EXPENDITURE OF EXCESS BOND PROCEEDS

This Agreement Regarding Expenditure of Excess Bond Proceeds ("Agreement") is entered into on [August 1, 2014] by and between the Successor Agency to the Community Redevelopment Agency of Atascadero ("Successor Agency") and the City of Atascadero, a municipal corporation ("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.) ("CRL"), the former Redevelopment Agency of the City of Atascadero ("Redevelopment Agency") had responsibility to implement the Redevelopment Plan ("Redevelopment Plan") for the Atascadero Redevelopment Project, originally approved on July 13, 1999, by Ordinance No.362 enacted by the City Council of the City of Atascadero (the "City Council"); and the Redevelopment Agency of the City of Atascadero ("RDA").

B. Pursuant to an Indenture of Trust dated as of September 1, 2010, and executed by and between the Atascadero Public Financing Authority ("Authority") and the Bank of New York Mellon Trust Company, N.A. as Trustee (the "Indenture"), the Authority issued Lease Revenue Bonds, Series A in the original principal amount of $16,010,000 (hereafter "Lease Revenue Bonds") for the purpose of financing certain repairs and improvements to the historic City of Atascadero City Hall and the acquisition and development of other capital projects within the geographic boundaries in the City of Atascadero. Specifically, in 2003 the historic City Hall had been significantly damaged by the San Simeon Earthquake, and the issuance of the Lease Revenue Bonds represented local agency cost sharing in the Federal Emergency Management Agency’s and California Emergency Management Agency’s agreement to fund in part the restoration of the historic structure.

C. On June 28, 2011, unbeknownst to the City and RDA, the Governor had signed Assembly Bill x1 26 ("AB 26"), putting an immediate halt to all redevelopment activities in the State of California and providing for the wind-down and dissolution of redevelopment agencies.

D. Pursuant to Resolution No. 2012-002 adopted by the City Council on January 10, 2012, the City agreed to serve as the Successor Agency to the Redevelopment Agency commencing upon dissolution of the Redevelopment Agency on February 1, 2012.

E. On March 8, 2013 the Successor Agency received its Finding of Completion under Health and Safety Code Section 34179.7 from the Department of Finance.

F. Health and Safety Code Section 34191.4(c) provides that once the 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 if such proceeds remain available after the satisfaction of enforceable obligations that have been approved on a ROPS (hereafter, “Excess Bond Proceeds”).

G. As of August 12, 2014, the Successor Agency expects to have Excess Bond Proceeds available from the Lease Revenue Bonds, and it is the intent of the Parties that all such Excess Bond Proceeds be used for the purposes for which the Lease Revenue Bonds were issued, specifically, for final payments and reimbursements on the now-completed City Hall repairs and improvements and for other capital projects to be undertaken within the Redevelopment Plan project area and with the Redevelopment Plan. In addition, the Federal Emergency Management Agency may request from the Successor Agency some of the proceeds of the Lease Revenue Bonds for City Hall project costs previously borne by that federal entity.

H. The execution of this Agreement was approved in a public meeting 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 August 12, 2014.

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

1. Effective Date. Because the Department of Finance has issued a finding of completion to the Successor Agency and the Successor Agency has the authority to transfer excess bond proceeds, this Agreement shall become effective when it is deemed effective in accordance with Health & Safety Code § 34179(h).

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 will use the Excess Bond Proceeds for financing improvements to the historic City of Atascadero City Hall and, if any Excess Bond Proceeds remain after those improvements are financed, for the acquisition and development of other capital projects within the geographic boundaries of the former RDA consistent with the requirements and covenants of the Lease Revenue Bonds, Series A and the provisions of the CRL that apply to the expenditure of redevelopment bonds, including but not limited to payments to the Federal Emergency Management Agency and the California Emergency Management Agency if so demanded by those entities. The Successor Agency acknowledges and agrees that a portion of the Excess Bond Proceeds will be used to reimburse the City for improvements to the historic City Hall for which contracts were not in place as of the date of adoption of AB 26 and for which the City utilized reserve and other funds to provide temporary or gap funding for the period of time between the adoption of AB 26 and the freeing-up of the Excess Bond Proceeds upon the issuance of the finding of completion.

4. Transfer of Excess Bond Proceeds. Upon the Effective Date, or as soon thereafter as Excess Bond Proceeds become available, the Successor Agency shall transfer Excess Bond Proceeds to the City, and
the City shall deposit such funds into separate Excess Bond Proceeds Accounts for City's use in accordance with the terms, conditions, and purpose set forth in 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 the projects described in this Agreement, nor to avoid legally required processes attendant to project approval, 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 as of the date first written above.

CITY OF ATASCADERO

By: ________________________________
   Tom O’Malley, Mayor

SUCCESSOR AGENCY TO THE
COMMUNITY REDEVELOPMENT
AGENCY OF ATASCADERO

By: ________________________________
   Rachelle Rickard, Executive Director

Attest:

[Signature]
Marcia McClure Torgerson, C.M.C., City Clerk

Approved as to form:

[Signature]
Brian Pierik, City Attorney