

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. FRENCH DATE 11/17/14

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

265



FROM: Executive Office

SUBMITTAL DATE:
 November 13, 2014

SUBJECT: Third Amendment to Settlement Agreement with the City of Hemet and its former Redevelopment Agency, District 3/District 3, [\$0]

RECOMMENDED MOTION: That the Board of Supervisors approve Board Resolution No. 2014-014 approving the Third Amendment to the Settlement Agreement between the County, the City of Hemet and its former Redevelopment Agency.

BACKGROUND:
Summary

In 1983, the County, the City of Hemet and its former Redevelopment Agency entered into a Settlement and General Release and Cooperative Agreement (the "Agreement"), which established general parameters for tax sharing with respect to the City's redevelopment activities.

(continues on next page)

Rohini Dasika
 Rohini Dasika
 Senior Management Analyst

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: N/A	Budget Adjustment: NO
	For Fiscal Year: 14/15

C.E.O. RECOMMENDATION:

APPROVE
 BY: *Alex Gann*
 Alex Gann

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.:

District:3

Agenda Number:

3-11

Departmental Concurrence

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FORM 11: Third Amendment to Settlement Agreement with the City of Hemet and its former Redevelopment Agency, District 3/District 3, [\$0]

DATE: November 13, 2014

PAGE: 2 of 2

BACKGROUND:

Summary (continued)

In 2002 the Agreement was amended (the "Second Amendment") to provide that the pass through payments made to the County are subordinated to the former Redevelopment Agency's 1999 and 2002 bond debt service. The Agreement was first amended in 1999 to help the city finance a library.

The City of Hemet and its Successor Agency are currently in the process of refinancing the 1999 and 2002 redevelopment bonds through the County's refinancing program for successor agencies. The refinancing of the bonds is on the Riverside County Public Financing Authority agenda for November 25, 2014. The refinancing is expected to produce over \$1.76 million in net present value savings thereby providing more funds to pay the County pass through payments.

To complete the refinancing, the Agreement must extend the current subordination to the 1999 and 2002 Bond debt service to the proposed refunding debt service and approve the amendment of the existing Agreement (the "Third Amendment"). The Second Amendment (executed in 2002) does not automatically transfer the subordination over to the refunding bonds, and the current Agreement is not open ended. Since the County pass through payments on existing 1999 and 2002 redevelopment bonds for the City of Hemet's former Redevelopment Agency are currently subordinated, approval of the Third Amendment will maintain the status quo for the refunding of these bonds. The refunding bonds will have the same terms as the 1999 and 2002 bonds refunded and there will savings in every year. If the Amendment is not approved and the Bonds not refunded the County will remain subordinated to the existing bonds. Staff recommends approval of the Third Amendment. This approval will improve the County's financial position by lowering bond debt service and increasing funds available to pay the County pass through payments.

Impact on Citizens and Businesses

This item will be beneficial for the citizens of Riverside County because it facilitates refunding of the bonds. Refunding the bonds results in increased residual tax revenues for all taxing entities sharing in the distribution of revenues that would otherwise be allocated to debt service. Taxing entities that will benefit include the school and community college districts, special districts, and the County.

1 RESOLUTION NO. 2014-014

2
3 RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
4 RIVERSIDE APPROVING THIRD AMENDMENT TO SETTLEMENT AGREEMENT AND
5 PROVIDING OTHER MATTERS RELATING THERETO
6

7 WHEREAS, the Redevelopment Agency of the City of Hemet (the
8 "Former Agency") has, pursuant to the California Community
9 Redevelopment Law (Health and Safety Code §33000 et seq) (the
10 "Redevelopment Law"), formed a redevelopment project known as
11 the Hemet Redevelopment Project (the "Project") pursuant to
12 Ordinance No. 906 adopted by the City Council of the City of
13 Hemet (the "City") on July 13, 1982; and
14

15 WHEREAS, in November 1983, the County of Riverside (the
16 "County"), the Former Agency and the City executed that certain
17 "Settlement and General Release and Cooperative Agreement
18 Between the County of Riverside, the Redevelopment Agency of the
19 City of Hemet and the City of Hemet" (the "Settlement
20 Agreement"); and
21

22 WHEREAS, the County, the Former Agency and the City entered
23 into the Settlement Agreement for the purpose of resolving and
24 settling a lawsuit filed by the County objecting to the
25 financial impact of the Project and to provide for "mutual aid
26 and assistance in the redevelopment of certain areas of City and
27 County through the construction, operation and maintenance of
28 County facilities, structures, equipment and apparatus"; and

FORM APPROVED COUNTY COUNSEL
BY: Dale A. Gardner 11/6/14 DATE
DALE A. GARDNER

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WHEREAS, among other things, the Settlement Agreement provided for the retention by the Former Agency of a portion of the County Share of Tax Increment (as defined in the Settlement Agreement) attributable to the area of the Project; and

WHEREAS, the Settlement Agreement also established a \$14,500,000 "cap" (the "County Cap") on the total County Share of Tax Increment permitted to be retained by the Former Agency; and

WHEREAS, the County, the City and the Former Agency entered into a First Amendment to Settlement and General Release and Cooperative Agreement, dated as of the 28th day of July, 1998 (the "First Amendment"), relating to a potential increase in the County Cap with respect to proposed bonds to be issued by the Former Agency; and

WHEREAS, the Redevelopment Agency issued its Redevelopment Agency of the City of Hemet, Hemet Redevelopment Project Subordinate Tax Allocation Bonds, 1999 Series A (the "1999 Bonds") in the aggregate principal amount of \$9,510,000 for the purpose of financing the acquisition and construction of a new public library of benefit to the citizens of the City and the County (the "Public Library"); and

1 **WHEREAS**, the Redevelopment Agency also issued its
2 Redevelopment Agency of the City of Hemet, Hemet Redevelopment
3 Project, Tax Allocation Bonds, 2002 Series A (the "2002 Bonds")
4 in an aggregate principal amount of \$7,500,000 for the purpose
5 of financing the completion of the acquisition and construction
6 of the Public Library; and
7

8 **WHEREAS**, the County, the City and the Former Agency entered
9 into a Second Amendment to Settlement and General Release and
10 Cooperative Agreement, dated as of the 1st day of April, 2002
11 (the "Second Amendment"), in order to subordinate the obligation
12 of the Former Agency to pass through the County Share of Tax
13 Increment to the County to the payment by the Former Agency of
14 debt service on the 1999 Bonds and the 2002 Bonds for the
15 purpose of enhancing the credit quality of the 2002 Bonds; and
16

17 **WHEREAS**, by implementation of California Assembly Bill X1
18 26 (as amended, the "Dissolution Act"), which amended provisions
19 of the Redevelopment Law and the California Supreme Court's
20 decision in California Redevelopment Association v. Matosantos,
21 the Former Agency was dissolved on February 1, 2012, and on
22 February 1, 2012, the Successor Agency, in accordance with and
23 pursuant to the Dissolution Act, assumed the duties and
24 obligations of the Former Agency, including, without limitation,
25 the obligations of the Former Agency with respect to the
26 Settlement Agreement and the outstanding 1999 Bonds and 2002
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28

1 Bonds and related documents to which the Former Agency was a
2 party; and
3

4 **WHEREAS**, Section 34177.5(a)(1) of the Dissolution Act
5 authorizes the Successor Agency to issue bonds pursuant to
6 Article 11 (commencing with Section 53580) of Chapter 3 of Part
7 1 of Division 2 of Title 5 of the Government Code (the
8 "Refunding Law") for the purpose of achieving debt service
9 savings within the parameters set forth in said Section 34177.5;
10 and
11

12 **WHEREAS**, the Successor Agency has determined that it will
13 achieve debt service savings within such parameters by the
14 issuance pursuant to the Redevelopment Law, the Dissolution Act
15 and the Refunding Law of its Successor Agency to the Hemet
16 Redevelopment Agency Hemet Redevelopment Project Tax Allocation
17 Refunding Bonds, Series 2014 (the "2014 Bonds") in order to
18 refund the outstanding 1999 Bonds and 2002 Bonds; and
19

20 **WHEREAS**, the Successor Agency has notified the County and
21 the City of the need again to subordinate the obligation of the
22 Successor Agency to pass through Tax Increment to the County in
23 order to permit the issuance of and to enhance the credit
24 quality of the 2014 Bonds and has requested that the County
25 consider such subordination, it being understood that the
26 issuance of the 2014 Bonds will provide funds to refund the 1999
27 Bonds and the 2002 Bonds and will result in debt service savings
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1 that will accrue to the benefit of the County and other taxing
2 entities; and
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4 **WHEREAS**, the Successor Agency desires that such
5 subordination be implemented as provided in the Third Amendment
6 to Settlement and General Release and Cooperative Agreement
7 between the County of Riverside, the Redevelopment Agency of the
8 City of Hemet and the City of Hemet (the "Third Amendment"), by
9 and among the City, the County and the Successor Agency, the
10 form of which is on file with the Clerk of the Board of
11 Supervisors; and
12

13 **WHEREAS**, the Board of Supervisors with the aid of its staff
14 has reviewed the Third Amendment and desires to approve the
15 Third Amendment;
16

17 **NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors
18 of the County of Riverside, as follows:
19

20 **Section 1. Approval of Third Amendment.** The Board of
21 Supervisors hereby approves the Third Amendment providing for
22 the subordination of the payment by the Successor Agency of Tax
23 Increment to the County to the payment of debt service on the
24 2014 Bonds. Each of the Chairman of the Board of Supervisors,
25 the County Executive Officer, the Deputy County Executive
26 Officer (each, an "Authorized Officer"), is hereby authorized
27 and directed to execute and deliver, and the Clerk of the Board
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1 of Supervisors, is hereby authorized and directed to attest to,
2 the Third Amendment for and in the name and on behalf of the
3 County, in substantially the form on file with the Clerk of the
4 Board of Supervisors, with such changes therein, deletions
5 therefrom and additions thereto as the Authorized Officer
6 executing the same shall approve, such approval to be
7 conclusively evidenced by the execution and delivery of the
8 Third Amendment. The Board of Supervisors hereby authorizes the
9 delivery and performance of the Third Amendment.
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11 **Section 2. Effective Date.** This Resolution shall take
12 effect from and after its adoption.
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**THIRD AMENDMENT TO
SETTLEMENT AND GENERAL RELEASE
AND COOPERATIVE AGREEMENT BETWEEN
THE COUNTY OF RIVERSIDE,
THE REDEVELOPMENT AGENCY OF THE CITY OF HEMET
AND THE CITY OF HEMET**

Parties and Date

This Third Amendment to Settlement and General Release and Cooperative Agreement Between the County of Riverside, the Redevelopment Agency of the City of Hemet and the City of Hemet (this "Third Amendment") is entered into as of the _____, 2014, by the COUNTY OF RIVERSIDE, a public body corporate and politic (the "County"), the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF HEMET, a public entity (the "Successor Agency") and the CITY OF HEMET, a municipal corporation (the "City").

RECITALS

WHEREAS, the Redevelopment Agency of the City of Hemet (the "Former Agency") has, pursuant to the California Community Redevelopment Law (Health and Safety Code §33000 et seq) (the "Redevelopment Law"), formed a redevelopment project known as the Hemet Redevelopment Project (the "Project") pursuant to Ordinance No. 906 adopted by the City Council of the City on July 13, 1982; and

WHEREAS, in November 1983, the County, the Former Agency and the City executed that certain "Settlement and General Release and Cooperative Agreement Between the County of Riverside, the Redevelopment Agency of the City of Hemet and the City of Hemet" (the "Settlement Agreement"); and

WHEREAS, the County, the Former Agency and the City entered into the Settlement Agreement for the purpose of resolving and settling a lawsuit filed by the County objecting to the financial impact of the Project and to provide for "mutual aid and assistance in the redevelopment of certain areas of City and County through the construction, operation and maintenance of County facilities, structures, equipment and apparatus"; and

WHEREAS, among other things, the Settlement Agreement provided for the retention by the Former Agency of a portion of the County Share of Tax Increment (as defined in the Settlement Agreement) attributable to the area of the Project; and

WHEREAS, the Settlement Agreement also established a \$14,500,000 "cap" (the "County Cap") on the total County Share of Tax Increment permitted to be retained by the Former Agency; and

WHEREAS, the County, the City and the Former Agency entered into a First Amendment to Settlement and General Release and Cooperative Agreement, dated as of the 28th day of July, 1998 (the "First Amendment"), relating to a potential increase in the County Cap with respect to proposed bonds to be issued by the Former Agency; and

WHEREAS, the Redevelopment Agency issued its Redevelopment Agency of the City of Hemet, Hemet Redevelopment Project Subordinate Tax Allocation Bonds, 1999 Series A (the "1999 Bonds") in the aggregate principal amount of \$9,510,000 for the purpose of financing the acquisition and construction of a new public library of benefit to the citizens of the City and the County (the "Public Library"); and

WHEREAS, the Redevelopment Agency also issued its Redevelopment Agency of the City of Hemet, Hemet Redevelopment Project, Tax Allocation Bonds, 2002 Series A (the "2002 Bonds") in an aggregate principal amount of \$7,500,000 for the purpose of financing the completion of the acquisition and construction of the Public Library; and

WHEREAS, the County, the City and the Former Agency entered into a Second Amendment to Settlement and General Release and Cooperative Agreement, dated as of the 1st day of April, 2002 (the "Second Amendment"), in order to subordinate the obligation of the Former Agency to pass through the County Share of Tax Increment to the County to the payment by the Former Agency of debt service on the 1999 Bonds and the 2002 Bonds for the purpose of enhancing the credit quality of the 2002 Bonds; and

WHEREAS, by implementation of California Assembly Bill X1 26 (as amended, the "Dissolution Act"), which amended provisions of the Redevelopment Law and the California Supreme Court's decision in California Redevelopment Association v. Matosantos, the Former Agency was dissolved on February 1, 2012, and on February 1, 2012, the Successor Agency, in accordance with and pursuant to the Dissolution Act, assumed the duties and obligations of the Former Agency, including, without limitation, the obligations of the Former Agency with respect to the Settlement Agreement and the outstanding 1999 Bonds and 2002 Bonds and related documents to which the Former Agency was a party; and

WHEREAS, Section 34177.5(a)(1) of the Dissolution Act authorizes the Successor Agency to issue bonds pursuant to Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code (the "Refunding Law") for the purpose of achieving debt service savings within the parameters set forth in said Section 34177.5; and

WHEREAS, the Successor Agency has determined that it will achieve debt service savings within such parameters by the issuance pursuant to the Redevelopment Law, the Dissolution Act and the Refunding Law of its Successor Agency to the Hemet Redevelopment Agency Hemet Redevelopment Project Tax Allocation Refunding Bonds, Series 2014 (the "2014 Bonds") in order to refund the outstanding 1999 Bonds and 2002 Bonds; and

WHEREAS, the Successor Agency has notified the County and the City of the need again to subordinate the obligation of the Successor Agency to pass through Tax Increment to the County in order to permit the issuance and enhance the credit quality of the 2014 Bonds and has requested that the County consider such subordination, it being understood that the issuance of the 2014 Bonds will provide funds to refund the 1999 Bonds and the 2002 Bonds and will result in debt service savings that will accrue to the benefit of the County and other taxing entities.

Definitions

Except as otherwise set forth herein, capitalized terms shall have the meaning set forth in the Settlement Agreement.

Operative Provisions

Section 1. Recitals. The above recitals are true and correct.

Section 2. Amendments. The County, the City and the Successor Agency hereby agree that the Settlement Agreement shall be amended as follows:

a. *County Subordination*. The County, the City and the Successor Agency hereby agree that debt service with respect to the 2014 Bonds issued in an aggregate principal amount not to exceed \$ _____, shall be senior to the obligation of the Successor Agency to pass through Tax Increment (as defined in the Settlement Agreement) to the County, notwithstanding the County Cap or any other provision of the Settlement Agreement, as amended.

b. *Pass-Through Obligation*. The County, the City and the Successor Agency hereby agree that the Successor Agency's obligation to pass through Tax Increment to the County is not reduced or eliminated by the subordination provided for in Section 2.a. of this Third Amendment (the "Subordination"). The Successor Agency shall pass through Tax Increment to the County, at such time as Tax Increment is available for such purpose, in accordance with the Settlement Agreement, subject only to the Subordination. In the event the County receives less Tax Increment from the Successor Agency; by operation of the Subordination; the amount of the difference shall accrue interest at the same rate and in the same manner as the County of Riverside investment pool until repaid in full to the County by the Successor Agency. The Successor Agency agrees to repay the County said amounts at such time as Tax Increment is available for such repayment, subject to the Subordination.

Section 3. Applicability of the Settlement Agreement. Except as otherwise expressly provided in this Third Amendment, the provisions of the Settlement Agreement, as previously amended, are hereby ratified, approved and confirmed.

Section 4. Execution in Several Counterparts. This Third Amendment may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

Section 5. Governing Law. This Third Amendment shall be governed by and construed in accordance with the laws of the State of California. In addition, the County, the City and the Successor Agency hereby agree that the provisions of the Redevelopment Law and the Dissolution Act governing the Settlement Agreement prior to execution of this Third Amendment shall continue to govern after execution of this Third Amendment.

Section 6. Incorporation By Reference. The County, the City and the Successor Agency hereby agree that the amendments contained in this Third Amendment are incorporated by this reference thereto into the Settlement Agreement, as amended by the First Amendment and the Second Amendment, to produce a conformed amended and restated Settlement Agreement which shall serve as the sole operative Settlement Agreement. The amendment contained herein shall be effective upon the execution of this Third Amendment.

Section 7. Interpretation. In the event of any conflict between the provisions of the Settlement Agreement, as amended, and the provisions of this Third Amendment, the provisions of this Third Amendment shall control.

Section 8, Severability. If any provision of this Third Amendment shall be held invalid, the remaining provisions shall maintain their full force and effect.

IN WITNESS WHEREOF, the Successor Agency, the City and the County have executed this Third Amendment by duly authorized representatives, all as of the date set forth above.

CITY OF HEMET

By: _____

Attest:

By: _____

SUCCESSOR AGENCY TO THE HEMET
REDEVELOPMENT AGENCY

By: _____

Attest:

By: _____

COUNTY OF RIVERSIDE

By: _____

Attest:

By: _____

FORM APPROVED COUNTY COUNSEL
BY: DALE A. GARDNER 11/6/14
DATE