

RESOLUTION NO. 2011-11

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK APPROVING AND AUTHORIZING EXECUTION OF A PUBLIC IMPROVEMENTS AND AFFORDABLE HOUSING REIMBURSEMENT AGREEMENT BETWEEN THE CITY AND THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF ROHNERT PARK

WHEREAS, the Community Development Commission of the City of Rohnert Park ("CDC") is carrying out the Redevelopment Plan ("**Redevelopment Plan**") for the Rohnert Park Redevelopment Project ("**Redevelopment Project**"); and

WHEREAS, under the Redevelopment Plan, the City of Rohnert Park ("**City**") shall aid and cooperate with the CDC in carrying out the Redevelopment Project and shall take actions necessary to ensure the fulfillment of the purposes of the Redevelopment Plan and prevent the recurrence or spread of conditions causing blight within the area of the Redevelopment Project ("**Project Area**"); and

WHEREAS, pursuant to Section 33320 of the California Community Redevelopment Law (Health and Safety Code Section 33000, et seq.) (the "**CRL**"), for the purposes of aiding and cooperating in the planning, undertaking, construction or operation of redevelopment projects within the Project Area, the City may, among other things, exercise the following powers: sell or lease any of its property to the CDC; cause public improvements to be furnished in connection with redevelopment projects; plan or replan and zone or rezone any part of a redevelopment project; and enter into agreements with the CDC respecting actions to be taken pursuant to any such powers; and

WHEREAS, in keeping with the goals and objectives of the Redevelopment Plan and the CDC's current Implementation Plan for the Redevelopment Project to eliminate physical and economic blight and increase, improve and preserve housing affordable for low- and moderate-income persons, the City and CDC have been working cooperatively to provide public improvements, and carry out affordable housing programs of benefit to the Project Area; and

WHEREAS, pursuant to Section 33445(a) of the CRL, the CDC may, with the consent of the City Council of the City of Rohnert Park ("**City Council**"), pay all or part of the value of the land for and the cost of the installation and construction of any buildings, facilities, structures or other improvements which are publicly owned and located inside or contiguous to a project area upon a determination by the City Council that such building, facilities, structures or other improvements are of benefit to the project area by helping to eliminate blight within the project area, that no other reasonable means of financing the acquisition of the land or installation or construction of such buildings, facilities, structures or other improvements that are publicly owned are available to the community, that the payment of funds for the acquisition of the land or installation or construction of the building, facilities, structure or other improvements that are publicly owned is consistent with the implementation plan adopted by the CDC pursuant to Section 33490 of the CRL; and

WHEREAS, pursuant to Section 33445(c) of the CRL, when the value of the land or the cost of installation and construction of a building, facility, structure, or other improvement that is

publicly owned, or both, has been, or will be, paid or provided for initially by the City, the CDC may enter into a contract with the City under which the CDC agrees to reimburse the City for all or part of the value of the land or all or a part of the cost of the building, facility, structure or other improvement that is publicly owned, or both, by periodic payments over a period of years; and

WHEREAS, the CDC and City Council have prepared and wish to enter into a Public Improvements and Affordable Housing Reimbursement Agreement (“**Agreement**”) to provide for City’s development and construction of certain public improvements (“**Public Improvements**”) and affordable housing projects (“**Affordable Housing Projects**”) within the Project Area and CDC’s reimbursement of City for the costs of the Public Improvements and Affordable Housing Projects; and

WHEREAS, a program Final Environmental Impact Report was prepared and certified on the Redevelopment Plan (“**Final EIRs**”) in accordance with the California Environmental Quality Act (“**CEQA**”), which included analysis of the Public Improvements and Affordable Housing Projects on a programmatic level; and

WHEREAS, at this time there are no preliminary drawings, plans or other sufficient information to enable a meaningful environmental assessment of the specific Public Improvements and Affordable Housing Projects, and therefore, the Agreement provides that the commitment of funds to and commencement of the specific Public Improvements and Affordable Housing Projects set forth therein shall be subject to completion of additional environmental review and analysis, as required by CEQA;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ROHNERT PARK DOES HEREBY RESOLVE AS FOLLOWS:

1. The City Council hereby finds and determines that the provision of the proposed Public Improvements are of benefit to the Project Area as they will help to eliminate blight within the Project Area, that no other reasonable means of financing the Public Improvements are available to the community; and that the payment of funds for the Public Improvements is consistent with the CDC’s Implementation Plan for the Redevelopment Project adopted pursuant to Section 33490 of the CRL. These findings and determinations are based upon the following facts:

- a. All the Public Improvements are either located within or contiguous to the Project Area and will assist in eliminating the following blight conditions: inadequate public improvements, depreciated property values and impaired investments, and inadequate public signage in the Project Area.
- b. Although the City is able to aid and assist the CDC by undertaking the Public Improvements and initially providing the funds necessary for the acquisition of land or the construction or installation of the Public Improvements, the City lacks the resources necessary to permanently fund the Public Improvements from the General Fund, and other potential sources of funds are no longer available or are inadequate. The City’s General Fund continues to be eroded by increased insurance and liability costs and State

mandated programs which are not fully funded by the State. Further there has been a marked decline in tax revenues and the availability of State and federal grants over the past several years.

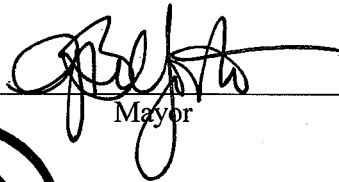
- c. The Implementation Plan for the Rohnert Park Redevelopment Project contains the specific goals and objectives of the CDC for the Project Area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the next five years, and an explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the Project Area and implement the housing requirements set forth in the Community Redevelopment Law. The Public Improvements are consistent with the Implementation Plan, as the goals and programs provide for the elimination of inadequate public improvements and the provision of public infrastructure of benefit to the Project Area consistent with the Public Improvements set forth in the Agreement.

2. The City Council hereby approves the Public Improvements and Affordable Housing Reimbursement Agreement and hereby authorizes and directs the Mayor to execute the Agreement on behalf of the City, substantially in the form on file with the CDC Secretary and City Clerk, with such revisions as are reasonably determined necessary by the City signatory, such determination to be conclusively deemed to have been made by the execution of the Agreement by the City signatory. The City Council hereby further authorizes and directs the City Manager to take all actions and execute all documents as necessary to carry out the Agreement.

3. This resolution shall take effect immediately upon adoption.

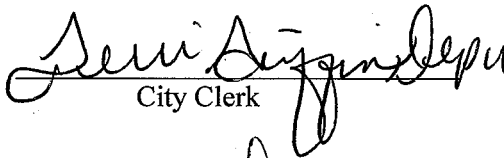
DULY AND REGULARLY ADOPTED this 25th day of January, 2011.

CITY OF ROHNERT PARK



 Mayor

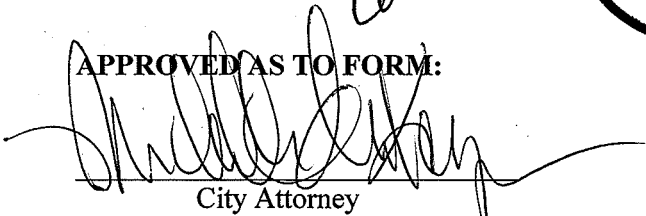
ATTEST:



 City Clerk



APPROVED AS TO FORM:



 City Attorney

AHANOTU: <u>AYE</u> CALLINAN: <u>AYE</u> MACKENZIE: <u>AYE</u> STAFFORD: <u>AYE</u> BELFORTE: <u>AYE</u> AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)

PUBLIC IMPROVEMENTS AND AFFORDABLE HOUSING
REIMBURSEMENT AGREEMENT

THIS PUBLIC IMPROVEMENTS AND AFFORDABLE HOUSING REIMBURSEMENT AGREEMENT (the "Agreement") is entered into this 25th day of January, 2011, by and between the CITY OF ROHNERT PARK (the "City") and the COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF ROHNERT PARK (the "CDC"), with reference to the following facts:

A. The CDC has prepared a Redevelopment Plan ("Redevelopment Plan") for the Rohnert Park Redevelopment Project Area (the "Project Area"), which results in the allocation of property taxes from the Project Area to the CDC ("Tax Increment") pursuant to Section 33670(b) of the California Community Redevelopment Law (Health & Safety Code Section 33000 et seq.) ("CRL") for purposes of redevelopment.

B. The intent of the Redevelopment Plan is, in part, to provide for the construction and installation of necessary public infrastructure and facilities and to facilitate the repair, restoration and/or replacement of existing public facilities and to perform specific actions necessary to promote the redevelopment and the economic revitalization of the Project Area; and to increase, improve and preserve the community's supply of low and moderate income housing; and to take all other necessary actions to implement the redevelopment plan for the Project Area and to expend Tax Increment to accomplish the goals and objectives of the redevelopment project.

C. The CDC has adopted its Five-Year Implementation Plan for the Project Area ("Implementation Plan") establishing goals for the elimination of blight, affordable housing, economic development and community and commercial revitalization. To implement the programs and activities associated with each goal, the CDC has committed redevelopment funds from the Project Area based on estimated available Tax Increment revenue and debt financing structures. The Redevelopment Plan and the Implementation Plan and all official records of the CDC, as amended from time to time, are incorporated herein by reference.

D. Pursuant to Section 33220 of the CRL, certain public bodies, including the City may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects. The CDC desires the assistance and cooperation of the City to carry out the Projects listed in the attached Exhibit 1, which are incorporated herein by this reference ("Projects"). The programs and activities associated with the Projects include but are not limited to acquisition of property, development of design criteria, design, planning, preparation of construction bid documents, financial analysis, financing, project administration and new construction or rehabilitation as applicable.

E. The City is willing to aid and cooperate with the CDC to expeditiously implement the Projects in accordance with the Redevelopment Plan and the Implementation Plan on the condition that the CDC pledge Net Available Tax Increment, as defined in Recital F below, to finance the Projects in this current fiscal year and forthcoming fiscal years.

F. For purposes of this Agreement, "Net Available Tax Increment" means any and all Tax Increment revenues, including (1) any and all funds currently held by the CDC, which are not budgeted or appropriated for payment of other indebtedness or obligations of the CDC; (2) any and all proceeds of bonded indebtedness currently or hereafter held by the CDC or any lawful successor of the CDC (except to the extent otherwise determined by the City Manager on behalf of the City and the CDC Executive Director on behalf of the CDC); and (3) all future property Tax Increment revenues allocated to the CDC, or any lawful successor of the CDC, pursuant to the Redevelopment Plan and the CRL or other applicable law, to pay indebtedness of the CDC after the CDC or its successor has made all necessary annual payments with respect to other outstanding debt obligations of the CDC, including without limitation bonded indebtedness, pass-through payments owed to affected taxing entities under written agreement or Sections 33607.5 or 33607.7 of the CRL, written agreements with other persons or entities, and any other statutorily required payment obligations of the CDC; provided, however, with respect to those Projects that are not related to affordable housing, the CDC's pledge of Net Available Tax Increment shall only include those Tax Increment revenues which CDC is not required pursuant to Section 33334.3 of the CRL to deposit into the CDC's Low and Moderate Income Housing Fund.

G. The City Council (the "Council") and the CDC by resolution have each found that the use of CDC's Net Available Tax Increment for the publicly-owned improvements described in Exhibit 1 is in accordance with Section 33445 of the CRL and other applicable law. Said Council and CDC resolutions are each based on the authority of the CDC, with the consent of the Council, to pay all or part of the cost of the land for and the installation and construction of any facility, structure, or other improvements which are publicly owned either inside or contiguous to a project area, if the Council makes certain determinations.

H. By approving and entering into this Agreement, the CDC has approved the pledge of Net Available Tax Increment from the Project Area to pay for the Projects.

I. The obligations of the CDC under this Agreement shall constitute an indebtedness of the CDC for the purpose of carrying out the Redevelopment Plan for the Project Area and a pledge of Net Available Tax Increment received by the CDC from the Project Area to pay such indebtedness under the provisions of Article XVI, Section 16 of the Constitution of the State of California, the CRL and the Redevelopment Plan.

J. This Agreement is in addition to, and does not supersede any other cooperative, repayment or reimbursement agreements entered into between the CDC and the City.

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

1. INTRODUCTORY PROVISIONS

1.1 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 and are incorporated into the terms and conditions of this Agreement.

2. CDC'S OBLIGATIONS

2.1 The CDC agrees to pay to the City the amounts set forth in Exhibit 2, or such lesser amounts to the extent the costs to the City to carry out the Projects are less than the budgeted amounts set forth in the Payment Schedule attached hereto as Exhibit 2 and incorporated herein by this reference, to reimburse the City for all costs incurred by the City in connection with the Projects, including without limitation all costs of planning, land acquisition, financing, development, permitting, design, site testing, bidding, project administration, construction and construction management of the Projects. The CDC's obligations under this Agreement, including without limitation the CDC's obligation to make the payments to the City required hereunder, shall constitute an indebtedness of the CDC for the purpose of carrying out the redevelopment of the Project Area and are obligations to make payments authorized and incurred pursuant to Section 33445 and other applicable statutes. The obligations of the CDC set forth in this Agreement are contractual obligations that, if breached, will subject the CDC to damages and other liabilities or remedies.

2.2 The obligations of CDC under this Agreement shall be payable out of Net Available Tax Increment, as defined in Recital F above, allocated to the CDC and/or any lawful successor entity of the CDC to carry out the Redevelopment Plan and/or pay indebtedness of the CDC pursuant to Section 33670, *et seq.*, of the CRL and Article XVI, Section 16 of the Constitution of the State of California, and any other applicable constitutional provision, statute or other provision of law now existing or adopted in the future, in amounts not less than those set forth in Exhibit 2.

2.3 The indebtedness of CDC under this Agreement shall be subordinate to the rights of the holder or holders of any existing bonds, notes or other instruments of indebtedness (all referred to herein as "indebtedness") of the CDC incurred or issued to finance redevelopment of the Project Area, including without limitation any pledge of Net Available Tax Increment revenues from the Project Area to pay any portion of the principal and interest (and otherwise comply with the obligations and covenants) of any bond or bonds issued or sold by the CDC with respect to the Project Area.

2.4 All payments due to be made by the CDC to the City under this Agreement shall be made by the CDC in accordance with the schedule set forth in Exhibit 2, and as otherwise necessary to reimburse the City for the cost to the City of performing its obligations hereunder. The City shall provide the CDC with a report from time to time as requested by the CDC accompanied by evidence reasonably satisfactory to the CDC's Executive Director that the City has progressed in the development and construction of the Project for which payment is made by the CDC commensurate with such payments and has incurred costs or obligations to make payments equal to or greater than such amount.

3. CITY'S OBLIGATIONS

3.1 The City shall accept and devote any and all funds offered by the CDC pursuant to this Agreement solely to completion of the Projects by (i) reimbursing the City or using such funds to make City expenditures to perform the work required to carry out and complete the Projects; (ii) utilizing such funds to pay debt service on bonds or other indebtedness or

obligations that the City has or will incur for such purposes; and/or (iii) paying such funds into a special fund of the City to be held and expended only for the purpose of satisfying the obligations of the City hereunder.

3.2 It is the responsibility of City to pay all development and construction costs in connection with the Projects from funds paid to the City by the CDC under this Agreement.

3.3 Prior to commencement of work on any of the listed Projects, all necessary environmental review required by CEQA shall be completed. This Agreement in no way limits the discretion of the Planning Commission, the CDC Board or the City Council in completing environmental review of the Projects.

3.4 The City shall perform its obligations hereunder in accordance with the applicable provisions of federal, state and local laws, and shall timely complete the work required for each Project in accordance with the time schedule set forth in Exhibit 2.

4. LIABILITY AND INDEMNIFICATION

In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, costs or expenses that may be incurred by such other party solely by reason of Government Code Section 895.2.

5. DEFAULT

If either party fails to 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 Agreement, including without limitation the right to sue for damages for breach of contract. The rights and remedies of the non-defaulting party enumerated in this section 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. All notices of defaults shall clearly indicate a notice of default under this Agreement.

6. MODIFICATION OF PROJECTS

The City and CDC may modify the list of Projects contained in Exhibit 1 and the schedule set forth in Exhibit 2 from time to time to provide for the use of additional federal, state and local

funds; to account for unexpected changes in available revenues, to modify or delete a particular project, to modify the cost estimate for individual projects, to maintain consistency with the City's General Plan or the Redevelopment Plan, or to take into consideration unforeseen circumstances including circumstances that may come to light as a result of subsequent CEQA review. Any such modifications shall be in writing and subject to approval by the City Council and CDC Board.

7. TERMINATION OF AGREEMENT

This Agreement and the obligations of the City and the CDC hereunder shall terminate upon the earlier of completion of the Projects by the City and CDC's reimbursement of the City's costs incurred in connection therewith or December 31, 2015.

8. MISCELLANEOUS

8.1 This Agreement may be executed in multiple originals, each of which is deemed to be an original.

8.2 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.

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

8.4 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.

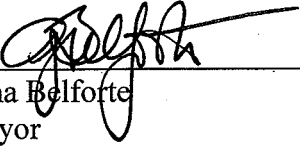
8.5 If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect.

8.6 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.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF ROHNERT PARK

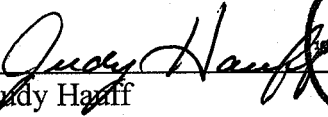
By: 
Gina Belforte
Mayor

Per Resolution No. 2011-11 adopted by
the Rohnert Park City Council on 1/25/11


COMMUNITY DEVELOPMENT
COMMISSION OF
THE CITY OF ROHNERT PARK

By: 
Gina Belforte
CDC Chair

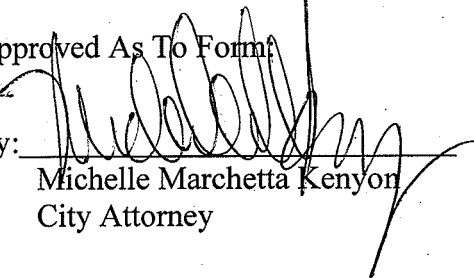
Per Resolution No. 2011-02 adopted by
the Community Development
Commission of the City of Rohnert Park
on 1/25/11

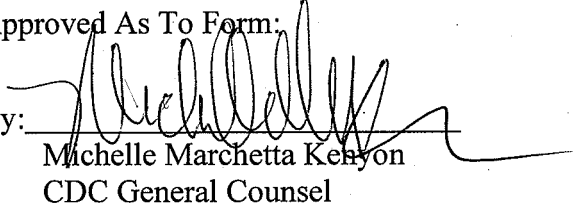
Attest: 
Judy Hauff
City Clerk



Attest: 
Judy Hauff
Secretary



Approved As To Form:
By: 
Michelle Marchetta Kenyon
City Attorney

Approved As To Form:
By: 
Michelle Marchetta Kenyon
CDC General Counsel

**Exhibit 1
List of Projects**

Project #	Project
1	Rohnert Park Community Center Improvements Various improvements to Community Center Campus as recommended by the Community Center Master Plan including redesign of the center plaza area, development of adjacent vacant lot and other phased projects.
2	Recreational and Community Facilities Improvements Improve recreational and community facilities serving the Project Area. Several projects have been identified including an aquatics facility, water/spray parks and all-weather sports fields.
3	Commercial Building Improvement Program Program will provide low interest loans for façade improvements and commercial rehabilitation of commercial properties within the Project Area.
4	Temporary Fire Station Facility Modification of an existing City-owned building to utilize it as a temporary fire station to service portions of the Project Area. Facility will provide service until such time as funding is available for a permanent facility.
5	Limited Community Sign Program Based on Corridor Plan, develop functional signage for major streets and major attractions.
6	Neighborhood Beautification Program Program provides assistance to residential property owners for improvements such as painting, landscaping and other improvements.
7	Avram Development/Former City Hall Reuse Redevelop former City Hall site and two contiguous parcels (6230 Commerce Blvd, 100 and 120 Avram Avenue) based on findings made in feasibility study for highest and best use.
8	Southwest Fire Station Reuse Redevelop property with 17 very-low income housing units or an alternative use focused on creating a public assistance site.
9	Rohnert Park Housing Rehabilitation Loan Program Provide rehabilitation loans to low and very-low income households.
10	Assistance to Community Based Organizations Provide financial assistance for health and safety repairs to homes occupied by low-income families with children, seniors and disabled individuals. Provide one-time rental assistance to eligible residents experiencing financial difficulty.
11	Southwest Boulevard Shopping Center Site Housing Element identifies this site for redevelopment of mixed-use housing with 12 affordable housing units; 4 very-low income and 8 low-income units.
12	Acquisition of Affordability Covenants Purchase affordability covenants to restrict occupancy of Rohnert Park rental units for 55 years to low and very-low income households.
13	Subsidies for Non-Profit Development Provide subsidies to qualified non-profit housing developers to increase affordable housing opportunities within Project Area and City.

**Exhibit 2
Payment Schedule**

Project #	Project	CDC Payments	Fiscal Years
1	Rohnert Park Community Center Improvements	2,463,824	2010 /11 thru 2012/13
2	Recreational and Community Facilities Improvements	3,210,000	2010/11 thru 2012/13
3	Commercial Building Improvement Program	1,605,000	2010/11 thru 2013/14
4	Temporary Fire Station Facility	267,500	2011/12
5	Community Sign Program	377,571	2011/12 thru 2013/14
6	Neighborhood Beautification Program	30,000	2011/12 thru 2013/14
7	Avram Development/Former City Hall Reuse	4,731,540	2010/11 thru 2012/13
8	Southwest Fire Station Reuse	2,140,000	2011/12 thru 2012/13
9	Rohnert Park Housing Rehabilitation Loan Program	535,000	2011/12 thru 2013/14
10	Assistance to Community Based Organizations	843,000	2011/12 thru 2013/14
11	Southwest Boulevard Shopping Center Site	1,840,400	2012/13 thru 2013/14
12	Acquisition of Affordability Covenants	1,161,610	2012/13 thru 2013/14
13	Subsidies for Non-Profit Development	3,300,000	2011/12 thru 2013/14

[The cost of each Project on the list includes all activities needed to carry out implementation of the Project (e.g., acquisition of property, planning and design, administrative costs, etc.)]