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## BOARD OF DIRECTORS

**Eric Dill,**

Chairperson,

San Dieguito Union High

School District

**Doug Rafner,**

Vice Chairperson,

Del Mar Union School

District

**Terry Decker,**

Director,

Solana Beach School

District

**Mark Risco,**

Executive Director and

Board Secretary

# North City West School Facilities Financing Authority Special Meeting of the Board of Directors

January 10, 2017 309 North Rios Avenue Solana Beach, CA 92075

2:30 p.m.

Phone: (858) 792-6937; Fax: (858) 792-8270

## Welcome...

### PUBLIC COMMENTS

With the exception of personnel items, individuals wishing to address the Board concerning an agenda item (or on other topics pertaining to JPA/CFD jurisdiction) are invited to do so at this time.

In the interest of time, **public presentations are limited to five (5) minutes per person, per topic.** If you wish to speak, please complete a card (located at the sign-in desk); and present it to the Board chairperson before commencement of the meeting. When the chairperson invites you to speak, please state your name, address and/or organization before making your presentation.

**Please note:** The law does not permit complaints and/or charges against an employee or staff member in an open Board of Directors' meeting.

In accordance with the Brown Act, there shall be no action taken for an item that has not been scheduled on a published agenda. Instead, the Board may:

- 1) Acknowledge receipt of the information,
- 2) Refer to staff for further study, or
- 3) Defer the matter to a future agenda.

We appreciate your cooperation.

### PUBLIC INSPECTION OF DOCUMENTS

In compliance with *Government Code 54957.5*, agenda related documents distributed to the Board less than 72 hours prior to meetings are available for inspection at North City West School Facilities Financing Authority executive offices located at 27368 Via Industria, Suite 110, Temecula, California.

### AMERICANS WITH DISABILITIES ACT

In compliance with the *Americans with Disabilities Act*, please contact the director at (858) 792-6937 by **noon**, the day before the Board meeting, to arrange reasonable accessibility for meeting participation.

Please set cellular phones and pagers to **silent mode**, and engage in conversations outside the meeting room.

**AGENDA**  
**Special Meeting**  
**January 10, 2017**  
**2:30 p.m.**

**Items**

- 1. CALL TO ORDER, ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF AGENDA**
- 4. ACTION ITEMS**

A. Approve First Amendment to Facilities Financing Agreement

**2 of 2**

**5. ADJOURNMENT OF SPECIAL MEETING**

The next scheduled Regular Board Meeting will be held on March 9, 2017 at the Solana Beach District Office. The District Office is located at 309 North Rios Avenue, Solana Beach, CA. 92075

# North City West School Facilities Financing Authority

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## Directors:

Eric Dill, Chairperson, San Dieguito Union High School District  
Doug Rafner, Vice Chairperson, Del Mar Union School District  
Terry Decker, Director, Solana Beach School District  
Mark Risco, Executive Director and Board Secretary

## ITEM 4A

### FIRST AMENDMENT TO FACILITIES FUNDING AGREEMENT

**BACKGROUND:** Section 2.02 (g) of the Facilities Funding Agreement (FFA) between the NCWSFFA member school districts allows for the transfer to each of the designated Overrun Funds the Available Amounts, as defined in the FFA, after the transfer to the Carmel Valley Middle School Expansion Fund (CVMSEF) has been completed. As of September 30, 2016, the Authority held \$5.6 million in available and encumbered funds for the Carmel Valley Middle School (CVMS) expansion pending transfer to the CVMSEF upon presentation to and acceptance by the Authority of the proposed the CVMS expansion facilities. Furthermore, the Authority holds an additional \$8.2 million in unencumbered funds as Available Amounts at September 30, 2016.

At the September 10, 2015 Authority Board meeting, the member school districts requested that the FFA be amended to allow for the transfer of some or all of the unencumbered funds to the Overrun Funds prior to the transfer to the CVMSEF to allow for the commencement of the payment of the Overrun Amounts. Such an amendment of the FFA is permissible pursuant to Section 5.05. when executed by all the parties.

At the December 10, 2015 Authority Board meeting, the Board authorized the Executive Director to initiate amendment to the Facilities Financing Agreement to allow for the funding of member agency Overrun Amounts prior to the complete transfer of the Carmel Valley Middle School Expansion Amount.

The requested amendment has been drafted by Authority's legal counsel Best Best & Krieger and has been made available for review and approval by the Board. The first amendment is included as **Attachment 4A** to this agenda.

**FISCAL IMPACT:** Release of up to \$8.2 million in unencumbered funds to be used for reimbursement to member agencies for approved Overrun Amounts

**RECOMMENDED ACTION:** Approve First Amendment to Facilities Financing Agreement.

**FIRST AMENDMENT TO  
FACILITIES FUNDING AGREEMENT**

**by and among**

**NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY**

**and**

**COMMUNITY FACILITIES DISTRICT NO. 1 OF THE  
NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY**

**and**

**COMMUNITY FACILITIES DISTRICT NO. 2 OF THE  
NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY**

**and**

**DEL MAR UNION SCHOOL DISTRICT**

**and**

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**

**and**

**SOLANA BEACH SCHOOL DISTRICT**

**Dated as of June 9, 2016**

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## **FIRST AMENDMENT TO FACILITIES FUNDING AGREEMENT**

**THIS FIRST AMENDMENT TO FACILITIES FUNDING AGREEMENT** (this “First Amendment”), dated as of June 9, 2016, is entered by and among NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY (the “Authority”), a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California, COMMUNITY FACILITIES DISTRICT NO. 1 OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY (“CED No. 1”), a community facilities district organized and existing under the and by virtue of laws of the State of California, COMMUNITY FACILITIES DISTRICT NO. 2 OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY (“CFD No. 2”), a community facilities district organized and existing under the and by virtue of laws of the State of California, DEL MAR UNION SCHOOL DISTRICT (“Del Mar”), a school district organized and existing under and by virtue of the laws of the State of California, SAN DIEGUITO UNION HIGH SCHOOL DISTRICT (“San Dieguito”), a school district organized and existing under and by virtue of the laws of the State of California, and SOLANA BEACH SCHOOL DISTRICT (“Solana Beach”), a school district organized and existing under and by virtue of the laws of the State of California. Authority, CFD No. 1, CFD No. 2, Del Mar, San Dieguito and Solana Beach may be referred to herein collectively as the “Parties” or individually as a “Party.” The Parties desire to enter into this First Amendment for the purpose of amending the Facilities Funding Agreement, dated as of September 1, 2002 (the “Agreement”), by and among the Parties as provided for herein. Unless defined in this First Amendment or the context otherwise requires, the capitalized terms used in this First Amendment shall, for the purposes hereof, have the meanings given such terms in the Agreement.

### **WITNESSTH:**

**WHEREAS**, the Parties originally entered into the Agreement for the purpose of providing for the priority in which specific school facilities necessary to house and serve students generated from the North City West area will be financed from Mitigation Payments, State Funds, CFD No. 1 Special Taxes, the proceeds of bonds or other obligations payable from CFD No. 1 Special Taxes, CFD No. 2 Special Taxes and the proceeds of bonds payable from CFD No. 2 Special Taxes;

**WHEREAS**, the Agreement provides on each date that Available Funds are available, the Authority shall set aside and transfer from such Available Funds the amounts specified in the Agreement in the order of priority specified in the Agreement for the purpose of financing the school facilities identified in the Agreement;

**WHEREAS**, as provided for in Section 2.02 of the Agreement, the Authority has set aside and transferred Available Amounts equal to the Solana Beach/Third Elementary Site Amount, the San Dieguito/High School Amount, the Solana Beach/Third Elementary Construction Amount, the Del Mar/Fourth Elementary Site Fund and the Del Mar/Fourth Elementary Construction Amount;

**WHEREAS**, the next amount in priority to be funded from Available Amounts pursuant to the provisions of Section 2.02 is the San Dieguito/Middle School Expansion Amount;

**WHEREAS**, the Agreement defines the San Dieguito/Middle School Expansion to mean the expansion of the Carmel Valley Middle School to house and serve an additional 213 students generated from the North City West Area;

**WHEREAS**, San Dieguito completed a Facilities Master Plan in 2010 to address the overcrowding at the Carmel Valley Middle School that included construction of the Pacific Trails Middle School to reduce the overall enrollment of the Carmel Valley Middle School, to remove temporary classrooms located at the Carmel Valley Middle School that were installed to address overcrowding at such middle school, and to construct additional core facilities for music, drama and food service to provide for projected enrollment at such middle school and to accommodate additional students generated by in-fill projects within North City West;

**WHEREAS**, San Dieguito has requested that the definition of San Dieguito/Middle School Expansion be amended to be applied to such Master Plan projects;

**WHEREAS**, the Agreement provides that the Authority shall transfer 100% of Available Amounts to the San Dieguito/Middle School Expansion Fund until the total amount transferred thereto is equal to the San Dieguito/Middle School Expansion Amount (calculated as of the date of each such transfer); and

**WHEREAS**, the San Dieguito/Middle School Expansion Amount for fiscal year 2015-2016 is \$5,568,098; and

**WHEREAS**, pursuant to the Agreement, the San Dieguito/Middle School Expansion Amount for fiscal year 2015-2016 is subject to periodic increase pursuant to the provisions of the Agreement commencing July 1, 2016 through the date of award of the construction bid for the San Dieguito/Middle School Expansion; and

**WHEREAS**, San Dieguito has notified the Authority that San Dieguito has budgeted the cost of the San Dieguito/Middle School Expansion to be \$5,700,000 and has requested that the Authority release the current Available Amounts to San Dieguito to apply towards the San Dieguito/Middle School Expansion; and

**WHEREAS**, the principal source of the Available Funds are the proceeds of the North City West School Facilities Financing Authority Subordinate Special Tax Revenue Bonds, Series 2005A (the "Series 2005A Bond Proceeds") issued and administered pursuant to the Indenture, dated July 1, 2005 (the "Indenture"), by and between the Authority, CFD No. 1 and U.S. Bank National Association, as trustee thereunder (the "Trustee"); and

**WHEREAS**, notwithstanding the fact that the Agreement provides for the transfer of Available Funds to the San Dieguito/Middle School Expansion Fund and the request by San Dieguito that such Available Funds be released to San Dieguito, the Indenture provides that the

Authority must provide a written request of the Authority requesting that funds be paid to specific payees for the payment of the cost of construction of eligible school facilities; and

**WHEREAS**, the Agreement provides that after the all transfers of Available Funds required to be made pursuant to clauses (a) through (f) of Section 2.02, the Authority shall transfer Available Funds pursuant to clause (g) of Section 2.02 to the various Overrun Funds identified clause (g);

**WHEREAS**, Del Mar and Solana Beach have expressed the need for Available Funds to be transferred to their respective Overrun Funds as soon as reasonably possible;

**WHEREAS**, the Parties desire to amend the Agreement to:

- amend the definition of the “San Dieguito/Middle School Expansion” to provide for the financing of the Master Plan facilities described hereinabove;
- be consistent with the provisions of the Indenture while meeting the needs of San Dieguito to apply such proceeds to the construction of the San Dieguito/Middle School Expansion;
- provide that the increase in the San Dieguito/Middle School Expansion Amount shall end on the date of the award of the first construction bid for the San Dieguito/Middle School Expansion.
- provide that after the full amount of the San Dieguito/Middle School Expansion Amount is encumbered for the San Dieguito/Middle School Expansion following the award of the first construction bid for such expansion, Available Amounts in excess of such encumbered funds may thereafter be made to the applicable Overrun Funds pursuant to clause (g) of Section 2.02 notwithstanding the fact that the construction of the San Dieguito/Middle School Expansion may not then be complete.

**NOW, THEREFORE**, in consideration of the above premises and of the mutual promises contained herein, the Parties do hereby agree to amend the Agreement as follows:

**Section 1. Amendment of the Agreement.** The Agreement is hereby amended as follows:

(a). Section 1.01 is hereby amended by:

(1) modifying the definition of “CFD No. 1 Special Tax Obligation Proceeds” to add the following sentence at the end of the existing definition:

“**CFD No. 1 Special Tax Bond Obligation Proceeds**” shall include, but not be limited to, the Series 2005A Bond Proceeds.”

(2) modifying the definition of “San Dieguito Middle School Expansion” to read as follows:

“**San Dieguito Middle School Expansion**” means the removal temporary classrooms located as the Carmel Valley Middle School that were installed to address overcrowding at such middle school, and the construction of additional core facilities for music, drama and food service to provide for projected enrollment at such middle school and to accommodate additional students generated by in-fill projects within North City West.”

(3) modifying the definition of the “San Dieguito/Middle School Expansion Amount’ to read as follows:

“**San Dieguito/Middle School Expansion Amount**’ means (a) for fiscal year 2015-2016 the amount of \$5,586,098, (b) for fiscal year 2016-2017 and each fiscal year thereafter to and including the fiscal year ending on the June 30 next preceding the date of award of the first construction bid (the “First Bid Award Date”) for the San Dieguito/Middle School Expansion, the San Dieguito/Middle School Expansion Amount in effect for the previous fiscal year, increased by a percentage amount equal to the percentage increase, if any, in the Index during the 12 month period ending on the last day of such fiscal year, and (c) for the period commencing on the July 1 next preceding the First Bid Award Date to and including the First Bid Award Date, the San Dieguito/Middle School Expansion Amount in effect for the previous fiscal year, increased by a percentage amount equal to the percentage increase, if any, in the Index during the period commencing on July 1 and ending on the First Bid Award Date.”

(4) adding the definition of “Series 2005A Bond Proceeds” to read as follows:

“**Series 2005A Bond Proceeds**” means the proceeds of the Series 2005A Bonds on deposit in the Project Fund established pursuant the Series 2005A Bond Indenture.”

(5) adding the definition of “Series 2005A Bonds” to read as follows:

“**Series 2005A Bonds**” means the \$17,665,000 North City West School Facilities Financing Authority Subordinate Special Tax Revenue Bonds, Series 2005A.”

(6) adding the definition of “Series 2005A Bond Indenture” to read as follows:

“**Series 2005A Bond Indenture**” means that certain Indenture, dated July 1, 2005, by and between the Authority, CFD No. 1 and U.S. Bank National Association, as trustee thereunder (the “**Trustee**”).



(b) Clause (f) of Section 2.02 is hereby amended to read as follows:

“(f) San Dieguito/Middle School Expansion Fund. After having made all of the transfers required to be made pursuant to paragraphs (a) through (e), inclusive, above, the Authority shall transfer 100% of Available Amounts to the San Dieguito/Middle School Expansion Fund until the total amount transferred thereto is equal to the San Dieguito/Middle School Expansion Amount (calculated as of the date of such transfer). Notwithstanding the foregoing, in the event that any portion of the Available Funds includes Series 2005A Bond Proceeds on deposit in the Project Fund established pursuant to the Indenture, the Authority may encumber such proceeds for the purpose of financing the San Dieguito/Middle School Expansion in lieu of having such proceeds transferred to the San Dieguito/Middle School Expansion Account.”

(c) The first sentence of Paragraph (g) of Section 2.02 is hereby amended to read as follows:

“After having made all of the transfers required to be made pursuant to paragraphs (a), (b), (c), (d), (e) and (f) or any Available Amounts consisting of Series 2005A Bond Proceeds have been encumbered pursuant to paragraph (f), above, and notwithstanding the fact that the construction of the San Dieguito/Middle School Expansion may not have been completed, the Authority shall transfer (i) 1/3 of Available Amounts to the Solana Beach/Third Elementary Overrun Fund, (ii) 1/3 of Available Amounts to the Del Mar/Fourth Elementary Overrun Fund, and (iii) 1/3 of Available Amounts to the San Dieguito/Fifth Quad-Middle School Expansion Overrun Fund, until the earliest of (x) the date on which the total amount transferred to the Solana Beach/Third Elementary Overrun Fund is equal to the Solana Beach/Third Elementary Overrun Amount, (y) the date on which the total amount transferred to the Del Mar/Fourth Elementary Overrun Fund is equal to the Del Mar/Fourth Elementary Overrun Amount, and (z) the date on which the total amount transferred to the San Dieguito/Fifth Quad-Middle School Expansion Overrun Fund is equal to the San Dieguito/Fifth Quad-Middle School Expansion Overrun Amount.”

**Section 2. Terms and Conditions of the Agreement as Originally Approved.**  
Except as modified in this First Amendment, the Agreement, as originally executed, shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have caused this First Amendment to be executed by their respective officers thereunto duly authorized, all as of the day and year first written above.

**NORTH CITY WEST SCHOOL FACILITIES  
FINANCING AUTHORITY**

By: \_\_\_\_\_

**COMMUNITY FACILITIES DISTRICT NO. 1  
OF THE NORTH CITY WEST SCHOOL  
FACILITIES FINANCING AUTHORITY**

By: \_\_\_\_\_

**COMMUNITY FACILITIES DISTRICT NO. 2  
OF THE NORTH CITY WEST SCHOOL  
FACILITIES FINANCING AUTHORITY**

By: \_\_\_\_\_

**DEL MAR UNION SCHOOL DISTRICT**

By: \_\_\_\_\_

**SAN DIEGUITO UNION HIGH SCHOOL  
DISTRICT**

By: \_\_\_\_\_

**SOLANA BEACH SCHOOL DISTRICT**

By: \_\_\_\_\_