

IN RE:

CITY OF BEAUMONT BOND REQUISITION
REVIEW AND RECONCILIATION

LEGISLATIVE SUBPOENA
(California Government Code §§ 37104 *et seq.*)

Appearance Date

Date: March 15, 2016

Time: 6:00 p.m.

Place: City of Beaumont City Hall
550 E. 6th Street
Beaumont, California 92223

SUBPOENA FOR APPEARANCE AND
PRODUCTION OF BUSINESS RECORDS

TO:

Custodian of Records for MUFG Union Bank,
N.A. ("Union Bank")
c/o John E. Breen, Esq.
Vice President / Discovery Counsel MUFG
Americas Legal Department
MUFG Union Bank, N.A.
445 S. Figueroa Street, 12th Floor
G12 - 300
Los Angeles, CA 90071

Nabeel Badawi, CCTS
Vice President
MUFG Union Bank, N.A.
120 S. San Pedro Street, Suite 400
Los Angeles, CA 90012

FROM: CITY OF BEAUMONT, CALIFORNIA

1. On March 1, 2016, the Beaumont City Council adopted Resolution No.2016-13 authorizing the issuance of this subpoena. A copy of Resolution 2016-13 is attached hereto and incorporated by this reference.

2. **YOU ARE ORDERED** by the City Council of the City of Beaumont to appear in person and produce Documents described in **Exhibit "1"** hereto at the Regular City Council Meeting of the City of Beaumont ("City") at 550 E. 6th Street, Beaumont, California 92223, on **March 15, 2016, at 6:00 p.m.** or at any continued Hearing.

3. **You are not required to appear in person and produce the requested Documents IF, by 4:00 p.m. on March 10, 2016, you deliver true, complete, legible, and durable copies of the requested Documents described in Exhibit "1" to:**

Elizabeth Gibbs
Acting City Manager
City of Beaumont
550 E. 6th Street
Beaumont, California 92223

4. All Documents produced to the City shall be accompanied by a declaration or affidavit warranting to their authenticity and completeness sufficient to meet the requirements of California Code of Civil Procedure section 2020.430. The City will pay all reasonable documented costs associated with photocopying the requested documents. If costs exceed \$500.00 please contact Elizabeth Gibbs at 951-769-8520 before copying.

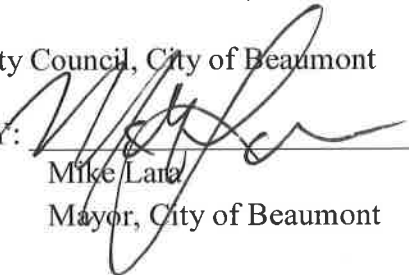
5. This subpoena is issued pursuant to California Government Code section 37104 *et seq.* and authorized, at a regularly noticed meeting of the City of Beaumont City Council.

6. Disobedience of this subpoena will be referred to the Superior Court for enforcement and is punishable as contempt pursuant to California Government Code section 37104 *et seq.* and as otherwise provided by law. Should you have any questions regarding this subpoena please contact:


John O. Pinkney (SBN 162586)
City Attorney for the City of Beaumont
Slovak Baron Empey Murphy & Pinkney LLP
1800 E. Tahquitz Canyon Way
Palm Springs, California, 92262
760-322-2275

Date issued: March 1, 2016

City Council, City of Beaumont

BY: 
Mike Lara
Mayor, City of Beaumont

ATTEST:

BY: 
Julio Martinez
City Clerk, City of Beaumont

APPROVE AS TO FORM

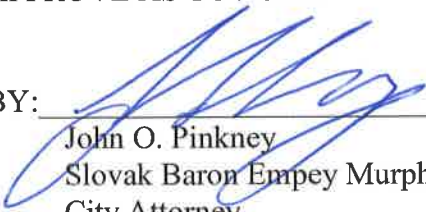
BY: 
John O. Pinkney
Slovak Baron Empey Murphy & Pinkney LLP
City Attorney

EXHIBIT "1"

DEFINITIONS

"DOCUMENT" or "DOCUMENTS" means all writings, originals and duplicates as defined in California Evidence Code Sections 250, 255, and 260;

"COMMUNICATIONS" as used herein means the transfer of information from one person or entity to another person or entity by any means, including, but not limited to, letter, electronic mail, or facsimile.

REQUESTED DOCUMENTS

Produce any and all DOCUMENTS, including but not limited to, requisitions, COMMUNICATIONS, internal memos, emails, books, records, invoices, cover sheets and electronic fund wiring confirmations evidencing payments from bond fund trust accounts held by MUFG Union Bank in connection with the following bonds issued by the City of Beaumont, Beaumont Finance Authority and/or Beaumont CFD District 93-1:

1996A Sewer	2007E
2000A	1994 A&B
2001 Sewer	2008A
2002A	2009A
2003A	2009B
2003B	2011A
2004A	2012A
2004B	2012B
2004C	2012C
2004D	2013A
2005A	2013B
2005B	2015A
2005C	2015B
2006A	2015C
2006B	2015D
2007A	2015E
2007B	
2007CD	

RESOLUTION NO. 2016-13

**RESOLUTION OF THE COUNCIL OF THE CITY OF
BEAUMONT AUTHORIZING THE ISSUANCE OF
SUBPOENAS FOR CERTAIN DOCUMENTS RELATED TO
CITY BOND FUND RECONCILIATION EFFORTS**

WHEREAS, Government Code sections 37104 et seq. authorizes the City Council to issue legislative subpoenas "requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding pending before it";

WHEREAS, the City Council has undertaken to reconcile past bond fund expenditures by the prior City administration in an effort to accurately account for past use of bond proceeds to provide an accounting to the citizens regarding past use of bond proceeds and to take legislative action for the health safety and welfare of the community based on the results of the reconciliation;

WHEREAS, MUFG Union Bank, NA ("Union Bank") serves as trustee for the relevant bond proceeds and as trustee assumed the obligation to keep proper books of records and account, prepared in accordance with industry standards, with complete and accurate entries relating to the proceeds of bonds issued by the City of Beaumont, CFD 93-1 and the Beaumont Finance Authority;

WHEREAS, the City has demanded verbally and in writing that Union Bank produce copies of requisitions and related documents for bonds issued by the City of Beaumont, Beaumont CFDs and Beaumont Finance Authority for which Union Bank serves as trustee;

WHEREAS, Union Bank has failed to comply with the City's requests for bond requisitions and related documents, which are essential to the City's efforts to reconcile bond fund expenditures to aid in preparation of the City recovery plan and provide an accounting to the community;

WHEREAS, the Council hereby finds and determines that probable cause exists that Union Bank is in possession of essential bond requisition documents necessitating the issuance of legislative subpoenas in order to compel Union Bank to produce the bond requisitions and related documents in its possession, custody or control;

WHEREAS, case authority interpreting Government Code section 37104 authorizes the issuance of legislative subpoenas; and

WHEREAS, the legislative subpoenas will serve a lawful legislative purpose as they will allow the City Council to investigate past use of bond funds; improve current and future policies and procedures regarding bond requisitions and accounting for use of bond proceeds; aid the City in development of a recovery plan and provide vital information to the community;

NOW, THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF BEAUMONT, CALIFORNIA, DOES HEREBY:

1. Find and determine that the foregoing recitals are true and correct and adopt the recitals as findings in support of the actions taken herein.

2. Issue individual legislative subpoenas to MUFG Union Bank, N.A. and its officers and employees for bond requisitions and related documents.

3. Order that the legislative subpoenas issued by this Resolution shall be in a form provided by the City Attorney that is substantially similar to the proposed form that is attached to this Resolution as Exhibit A. The legislative subpoenas shall be signed by the Mayor and certified by the City Clerk. A copy of this Resolution shall be attached to the subpoenas and shall be incorporated by reference into the subpoenas. The subpoenas shall be served upon the subpoenaed parties in the same manner as subpoenas are served in a civil action.

4. Declare that failure to comply with the subpoenas issued pursuant to this Resolution shall subject the subpoenaed parties to the remedies set forth in Government Code sections 37104 *et seq.* or otherwise provided by law.

5. Authorize the Mayor, City Manager, City Clerk and the City Attorney to take all actions necessary to issue, serve and enforce subpoenas authorized pursuant to this Resolution. Said authority includes the issuance of further subpoenas to Union Bank and their officers, employees and agents in furtherance of obtaining documents that will assist the City and its financial advisors in their efforts to reconcile and fully account for use of bond funds and proceeds.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of
Beaumont, California, held on the 1st day of March, 2016.


CITY OF BEAUMONT

BY


Mike Lara, Mayor

ATTEST:

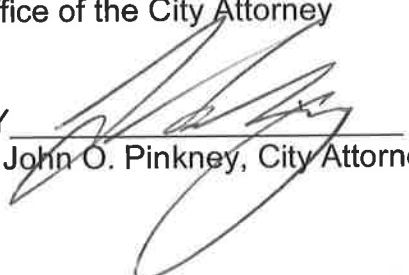
BY


Julio Martínez, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney

BY


John O. Pinkney, City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF BEAUMONT)

I, Julio Martinez, City Clerk of the City of Beaumont, California, do hereby certify that the foregoing Resolution No. 2016-13 was duly and regularly adopted at the regular meeting of the City Council of the City of Beaumont, California, held on the 1st day of March, 2016, by the following vote:

AYES: 5
NOES: 0
ABSENT:0
ABSTAINED: 0

BY 
Julio Martinez, City Clerk