

OVERSIGHT BOARD RESOLUTION NO. 2014-01

CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF SOUTH GATE FINDING THAT THE CITY/AGENCY LOAN BETWEEN CITY AND FORMER AGENCY WAS ENTERED INTO FOR LEGITIMATE REDEVELOPMENT PURPOSES AND AUTHORIZING THE SUCCESSOR AGENCY TO ENTER INTO THAT CERTAIN AGREEMENT TO RE-ESTABLISH LOAN PURSUANT TO SECTION 34191.4 BETWEEN THE CITY AND THE SUCCESSOR AGENCY FOLLOWING THE OBTAINING OF A FINDING OF COMPLETION

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

WHEREAS, the Community Development Commission of the City of South Gate ("Agency") previously was a public body, corporate and politic formed, organized, existing and exercising its powers pursuant to Section 34100, *et seq.* of the California Health and Safety Code, and exercised the powers, authority, functions, jurisdiction of a community redevelopment agency formed, organized, existing and exercising its powers pursuant to the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq.*, and specifically formed by the City Council ("City Council") of the City of South Gate ("City"); and

WHEREAS, Assembly Bill x1 26 ("AB x1 26") added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code and which laws were modified, in part, and determined constitutional by the California Supreme Court in the petition *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("*Matosantos* Decision"), which laws and court opinion caused the dissolution of all redevelopment agencies and winding down of the affairs of former redevelopment agencies; thereafter, such laws were amended further by Assembly Bill 1484 ("AB 1484") (together AB x1 26, the *Matosantos* Decision, and AB 1484 are referred to as the "Dissolution Laws"). All statutory references herein are to the Health and Safety Code of the Dissolution Laws unless otherwise stated; and

WHEREAS, as of February 1, 2012 the former Agency was dissolved pursuant to the Dissolution Laws and as a separate public entity, corporate and politic the Successor Agency administers the enforceable obligations of the former Agency and otherwise unwinds the former Agency's affairs, all subject to the review and approval by a seven-member oversight board ("Oversight Board"); and

WHEREAS, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the affected taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Laws; and

WHEREAS, Section 34177(a) permits the Successor Agency to make payments due for enforceable obligations; and

WHEREAS, Section 34177(l) requires the Successor Agency to prepare a Recognized Obligation Payment Schedule ("ROPS") before each six-month fiscal period that lists its Enforceable Obligations; and

WHEREAS, Section 34191.4(b) authorizes the City and Successor Agency to re-establish prior loan agreement(s) between the City and the former Agency as follows:

"(1) Notwithstanding subdivision (d) of Section 34171, upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created by the redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes.

(2) If the oversight board finds that the loan is an enforceable obligation, the accumulated interest on the remaining principal amount of the loan shall be recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund [LAIF]. The loan shall be repaid to the city, county, or city and county in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into the Local Agency Investment Fund. The annual loan repayments provided for in the recognized obligations payment schedules shall be subject to all of the following limitations:

(A) Loan repayments shall not be made prior to the 2013–14 fiscal year. Beginning in the 2013–14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this subdivision and paragraph (7) of subdivision (e) of Section 34176 combined shall be equal to one-half of the increase between the amount distributed to the taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012–13 base year. Loan or deferral repayments made pursuant to this subdivision shall be second in priority to amounts to be repaid pursuant to paragraph (7) of subdivision (e) of Section 34176.

(B) Repayments received by the city, county or city and county that formed the redevelopment agency shall first be used to retire any outstanding amounts borrowed and owed to the Low and Moderate Income Housing Fund [LMIHF] of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund [SERAF] and shall be distributed to the Low and Moderate Income Housing Asset Fund established by subdivision (d) of Section 34176.

(C) Twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to the Low and Moderate Income Housing Asset Fund, after all outstanding loans from the Low and Moderate Income Housing Fund for purposes of the Supplemental Educational Revenue Augmentation Fund have been paid."

WHEREAS, the City and the former Agency entered into that certain Loan Agreement dated as of February 19, 2002 ("Original Loan Agreement") under which the City loaned \$12,000,000 to the former Agency in order for the former Agency to undertake and complete various land improvement projects, which projects were intended to eliminate blight and to advance other legitimate redevelopment purposes under the CRL; and

WHEREAS, in connection with its approval of the Original Loan Agreement, the City Council, on behalf of the City and as the legislative body of the former Agency, determined that funding for the land improvement projects was not otherwise available to the former Agency and the City then had funds available in its General Fund to loan to the former Agency for such legitimate redevelopment projects that were determined consistent with the former Agency's redevelopment purposes; and

WHEREAS, the City loaned and advanced \$12,000,000 to the former Agency for redevelopment purposes, and thereafter loan repayments were made by the former Agency to the City from available tax increment that reduced the principal due on the City/Agency Loan as of June 30, 2010 to \$3,388,080, and, the current principal balance remains at \$3,388,080 because the DOF disallowed payments made to the City during the period July 1, 2010 through June 30, 2012; and

WHEREAS, during the DOF's review of the Successor Agency's other available funds due diligence review under the Dissolution Laws, the DOF disallowed the Original Loan Agreement as an enforceable obligation and issued its decision rejecting the entire amount due under the City/Agency Loan and demanded and received repayment of all sums repaid during the period January 1, 2011 to June 30, 2012; and

WHEREAS, the Original Loan Agreement established an interest rate for the City/Agency Loan of 3.5%, which rate for quite a few of the years between 2002 to 2010 was below the interest rate earned by funds deposited into the Local Agency Investment Fund ("LAIF"); and

WHEREAS, Section 34191.4 of the Dissolution Laws authorizes the Successor Agency to re-establish the City/Agency Loan after the issuance of a finding of completion; and

WHEREAS, on May 24, 2013, the Successor Agency received a letter from the DOF that issued the finding of completion and therefore, the City and Successor Agency by resolutions have approved entering into that certain *Agreement to Re-Establish Loan Pursuant to Section 34191.4* ("Agreement") to re-establish the City/Agency Loan established by the Original Loan Agreement in the Loan Amount of \$3,388,080 on terms and conditions that conform to and are set forth herein pursuant to Section 34191.4 of the Dissolution Laws; and

WHEREAS, the Section 34191.4 Agreement sets forth the terms of the reinstated loan with repayments to the City in accordance with a new, defined repayment schedule over a "reasonable" term of years (Exhibit A thereto) with the accumulated interest on the remaining principal amount of the loan accruing at the LAIF rate pursuant to the formula and other limitations of Section 34191.4 and the Dissolution Laws; and

WHEREAS, the former Agency did not have any outstanding amounts borrowed or owed to the LMIHF for purposes of the SERAF; and

WHEREAS, as described above, the monies loaned by the City to the former Agency for the City/Agency Loan were to fund redevelopment activities and implementation of the former Agency's Redevelopment Plan, including acquisition of properties, public improvements related to and benefiting the Project Area, and development projects all of which were authorized by the Community Redevelopment Law and were made for legitimate redevelopment purposes; and

WHEREAS, therefore by this Resolution the Oversight Board desires to find that the City/Agency Loan was entered into for legitimate redevelopment purposes, that the Agreement establishing the City/Agency Loan is an enforceable obligation, and to consent to the Successor Agency entering into the Agreement; and

WHEREAS, pursuant to Section 34179(h) as amended by Assembly Bill 1484, written notice and information about all actions taken by the Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing, and an Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF SOUTH GATE:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

Section 2. Pursuant to Section 34191.4 of the Dissolution Laws, the Oversight Board finds (i) that the City/Agency Loan was entered into for legitimate redevelopment purposes, and (ii) that the Section 34191.4 Agreement and reinstated loan is an enforceable obligation.

Section 3. The Oversight Board consents to the Successor Agency entering into the *Agreement to Re-Establish Loan Pursuant to Section 34191.4*, which is attached hereto and incorporated by this reference.

Section 4. The Oversight Board directs the Successor Agency to submit the Section 34191.4 Agreement and this Resolution to the DOF.

Section 5. The Assistant City Manager/Finance Director of the Successor Agency or his authorized designee is directed to post this Resolution on the Successor Agency website pursuant to the Dissolution Laws.

Section 6. Pursuant to Section 34179(h) as amended by Assembly Bill 1484, written notice and information about all actions taken by the Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing. An Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.