

RESOLUTION NO. 14-01

**A RESOLUTION OF THE SAN GABRIEL SUCCESSOR AGENCY
OVERSIGHT BOARD MAKING FINDINGS AND APPROVING
THE REESTABLISHMENT OF A CITY/AGENCY LOAN
PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.4**

RECITALS

A. WHEREAS: Section 34191.4(b) of the Health and Safety Code authorizes a City and a successor agency to a former redevelopment agency to reestablish prior loan agreements between the city and the former redevelopment 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 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. 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 of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund 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."

B. WHEREAS: The City of San Gabriel ("City") and the former San Gabriel Redevelopment Agency entered into that certain Cooperation Agreement dated June 15, 1993 ("Loan Agreement") pursuant to which the City annually loaned money to the former Agency for funding of redevelopment projects and payment of debt service on the outstanding balance of the loan.

C. WHEREAS: The redevelopment purpose for the loans made pursuant to the Loan Agreement was that the former Agency did not have adequate funds to carry out redevelopment projects.

D. WHEREAS: The principal balance due to the City under the Loan Agreement as of June 30, 2012 was \$1,284,944.96.

E. WHEREAS: The City and Successor Agency propose to enter into a certain *Agreement to Re-Establish Loan Pursuant to Section 34191.4* ("Agreement"), a true copy of which is attached hereto as Exhibit A, to allow repayment of the loan in accordance with the provisions of Health and Safety Code Section 34191.4(b).

F. WHEREAS: The Successor Agency to the San Gabriel Redevelopment Agency ("Successor Agency") received its Finding of Completion from the State Department of Finance ("DOF") by letter dated April 26, 2013 and has therefore met this prerequisite for qualifying the amounts due under the Loan Agreement as enforceable obligations.

NOW, THEREFORE, THE SAN GABRIEL SUCCESSOR AGENCY OVERSIGHT BOARD DOES HEREBY RESOLVE AS FOLLOWS:

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 Health and Safety Code Section 34191.4 the Oversight Board finds that the Loan Agreement was entered into for legitimate redevelopment purposes and that the loan is an enforceable obligation.

Section 3. The Oversight Board consents to the Successor Agency entering into the Agreement to Reestablish Loan Pursuant to Section 34191.4 which is attached hereto as Exhibit A.

Section 4. The Oversight Board directs the Successor Agency to submit the Agreement and this Resolution to the Department of Finance.

I HEREBY CERTIFY that the foregoing resolution was introduced and passed by the San Gabriel Successor Agency Oversight Board, at its meeting of February 17, 2013



Hamid Behdad, Chair

PASSED, APPROVED and ADOPTED this 17th day of February, 2014

Ayes: 5
Noes: 0
Absent: 2
Abstain: 0

Attest:



Camille Paton, Deputy City Clerk

Exhibit A to OB 14-01:
Agreement to Reestablish City/Redevelopment Agency Loan

AGREEMENT TO RE-ESTABLISH LOAN PURSUANT TO SECTION 34191.4

This AGREEMENT TO RE-ESTABLISH LOAN PURSUANT TO SECTION 34191.4 ("Agreement") is entered into as of _____, 2014, between the **CITY OF SAN GABRIEL**, a municipal corporation, ("City") and the **SUCCESSOR AGENCY TO THE SAN GABRIEL REDEVELOPMENT AGENCY**, a public body corporate and politic ("Successor Agency").

RECITALS

A. The City is a municipal corporation organized and operating under the laws of the State of California.

B. The Successor Agency is a public body corporate and politic, organized and operating under Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, as the successor to the former San Gabriel Redevelopment Agency ("former Agency") that had previously been organized and existed pursuant to the Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.* ("CRL").

C. Assembly Bill x 1 26 chaptered and effective on June 27, 2011 and Assembly Bill 1484 chaptered and effective on June 27, 2012 (together, the "Dissolution Laws") brought about the dissolution of all redevelopment agencies and winding down of their affairs. All statutory references herein are to the sections of the Dissolution Laws contained in Parts 1.8 and I.85 of Division 24 of the California Health and Safety Code.

D. As of February 1, 2012 the former Agency was dissolved pursuant to the Dissolution Laws and the Successor Agency now 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").

E. Section 34177(a) permits the Successor Agency to make payments due for enforceable obligations.

F. Section 34177(1) requires the Successor Agency to prepare a Recognized Obligation Payment Schedule ("ROPS") before each six-month fiscal period that lists its Enforceable Obligations.

G. Section 34191.4(b) authorizes the City and Successor Agency to re-establish prior loan agreements 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 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. 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 of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund 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."

H. The Successor Agency received its Finding of Completion from the State Department of Finance ("DOF") by letter dated April 26, 2013.

I. The City and the former Agency entered into that certain Cooperation Agreement dated June 15, 1993 ("Loan Agreement") pursuant to which the City annually loaned money to the former Agency for funding of redevelopment projects and payment of debt service on the outstanding balance of the loan.

J. The redevelopment purpose for the loans made pursuant to the Loan Agreement was that the former Agency did not have adequate funds to carry out redevelopment projects.

K. The principal balance due to the City under the Loan Agreement as of June 30, 2012 was \$1,284,944.96.

L. By this certain *Agreement to Re-Establish Loan Pursuant to Section 34191.4*

("Agreement") the City and Successor Agency desire to re-enter into and re-establish the loan established by the Loan Agreement with interest on the remaining principal balance to accrue at the rate set forth in Section 34191.4(b) of the Dissolution Laws (the "LAIF Rate").

M. Whereas, by adoption of Resolution No. OB 14-01 on February 17, 2014, the Oversight Board authorized the Successor Agency to approve this Agreement and determined that the Loan Agreement, as Reestablished by this Agreement, constitutes an enforceable obligation.

N. By this Agreement the City and Successor Agency also establish a repayment schedule for the re-established loan over a reasonable term of years and agree to list the Agreement and loan thereunder as an enforceable obligation of the *Successor Agency* on each successive ROPS prepared by the *Successor Agency*, approved by the Oversight Board, and reviewed and approved by the DOF until all principal and interest is repaid in full.

AGREEMENT

NOW **THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, the City and Successor Agency agree as follows:

Section I. Recitals. The *City* and *Successor Agency* represent and warrant to each other that each and all of the respective recitals are true and correct, are a material part hereof, and are hereby incorporated into this Agreement by reference as if fully set forth and such Recitals evidence the intent *of the* parties regarding the Loan.

Section 2. Loan Amount. The remaining principal balance due on the loan as of June 30, 2012 is One Million Two Hundred Eight Four Thousand Nine Hundred Forty Four Dollars and Ninety-Six Cents (\$1,284,944.96).

Section 3. Interest. The loan shall accrue interest recalculated at the LAIF Rate compounded daily, and as computed by the City Finance Officer.

Section 4. Payment. The Successor Agency agrees to repay the principal and all accrued interest bi-annually corresponding to the time that is within ten (10) days of the date that the Successor Agency receives monies allocated from the Redevelopment Property Tax Trust Fund for this Agreement for each six-month fiscal period until repaid in full pursuant to the provisions of the Dissolution Laws.

Section 5. Penalty. In the event the Successor Agency fails to make payment *in* full as required under this Agreement, the Successor Agency shall pay to the City a late charge of one percent (1.0%) of the overdue amount and an additional one percent (1.0 %) of the overdue amount for each calendar month such amount remains unpaid. Any unpaid portion of the loan will continue to accrue interest at the rate provided in Section 3 until paid in full.

Section 6. Approval and Findings of the Oversight Board. At its meeting of February 17, 2014, the Oversight Board adopted Resolution No.14-01 approving this Agreement and making its determination that the monies loaned pursuant to the Loan Agreement were for a legitimate

redevelopment purpose.

Section 7. Successor Agency to List Agreement as an Enforceable Obligation on Each ROPS until the Loan is Repaid. The Successor Agency agrees to list this Agreement as an enforceable obligation on each ROPS during each fiscal year until repaid in full pursuant to the provisions of the Dissolution Laws, with the amount of that listed as an enforceable obligation to be the full amount of principal and interest that remains outstanding with the repayment amount for each fiscal year equal to the maximum amount allowed pursuant to Health and Safety Code Section 34176(e)(6)(B). An estimated repayment schedule is attached hereto as Exhibit A. In the event the amount allowed pursuant to Health and Safety Code Section 34176(3)(6)(B) varies from the amount shown in Exhibit I, the amount allowed per the Health and Safety Code shall be the amount that shall be paid.

Section 8. Term. This Agreement shall be in full force and effect from the Date it is approved by DOF until such time as the entire loan amount has been repaid in full.

Section 9. Entire Agreement. This Agreement constitutes the entire agreement by and between the parties with respect to the subject matter of this Agreement, and may be amended only in writing.

Section 10. Remedies. In the event of a default, the parties hereto shall be entitled to pursue any and all remedies available at law or equity under California law for purposes of enforcing the terms and conditions of this Agreement.

IN WITNESS **WHEREOF**, said parties have caused this *Agreement to Re-Establish Loan Pursuant to Section 34191.4* to be executed by their officers duly authorized on the Date of Agreement.

CITY OF SAN GABRIEL

Mayor

**SUCCESSOR AGENCY TO THE
SAN GABRIEL REDEVELOPMENT AGENCY**

Chair

ATTEST:

City Clerk

APPROVED AS TO FORM:
WALLIN, KRESS, REISMAN & KRANITZ, LLP

Peter L.Wallin

Exhibit I to City/RDA Loan:
Potential Loan Repayment Schedule

Exhibit I
 East San Gabriel Commercial Project Area
 Repayment of City Loan \$1.3 Million City Loan
 Defined Payment Schedule

ROPS (1)	RPTTF Pmt Date	Beg Balance City Loan (2) All Principal	Estimated Annual (3) LAIF Rate	Add: Interest at LAIF Rate	Less: Est. (4) Actual Pmts	Ending Balance City Loans	Loan Pmts Received by City	
							Unrestricted	Housing (5)
6/30/2012		1,284,945	0.26%	1,670		1,286,615		
ROPS 3	Jan-13	1,286,615	0.26%	1,673		1,286,618	-	-
2013-14A	Jun-13	1,286,618	0.26%	1,673	-	1,288,290	-	-
2013-14B	Jan-14	1,288,290	0.26%	1,675	-	1,289,965	-	-
2014-15A	Jun-14	1,289,965	0.26%	1,677	138,606	1,153,036	110,885	27,721
2014-15B	Jan-15	1,153,036	1.00%	5,765	-	1,158,801	-	-
2015-16A	Jun-15	1,158,801	1.00%	5,794	151,000	1,013,595	120,800	30,200
2015-16B	Jan-16	1,013,595	1.00%	5,068	151,000	867,663	120,800	30,200
2016-17A	Jun-16	867,663	1.00%	4,338	151,000	721,001	120,800	30,200
2016-17B	Jan-17	721,001	2.00%	7,210	151,000	577,211	120,800	30,200
2017-18A	Jun-17	577,211	2.00%	5,772	151,000	431,983	120,800	30,200
2017-18B	Jan-18	431,983	2.00%	4,320	151,000	285,303	120,800	30,200
2018-19A	Jun-18	285,303	2.00%	2,853	151,000	137,156	120,800	30,200
2018-19B	Jan-19	137,156	2.00%	1,372	138,528	-	110,822	27,706
2019-20A	Jun-19	-	2.00%	-	-	-	-	-
	Totals	N/A	N/A	49,189	1,334,134	N/A	1,067,307	266,827

- (1) DOF's April 2013 instructions indicate that Successor Agency's can only be repaid based on the amount the prior year revenues actually exceed the 2012-13 base year. This has the effect of delaying the repayment by one year.
- (2) Remaining loan balance per the City of San Gabriel June 30, 2012 CAFR. Since the balance remaining is all principal, a recalculation of interest to reflect LAIF rates is not necessary.
- (3) Estimated. Future LAIF rates are likely to vary over time.
- (4) Estimated only. Actual annual repayments will be in accordance with the formula provided in the Dissolution Statutes and as approved by DOF.
- (5) Twenty percent of any loan repayments the City receives must be used for low and moderate income housing purposes pursuant to HSC 34191.4.