

RESOLUTION NO. 2015 – 01

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION AS
THE NATIONAL CITY REDEVELOPMENT AGENCY FINDING THAT THE
REPAYMENT OF THE \$420,000 BALANCE DUE ON THE SEWER FUND LOAN
ESTABLISHED BY COMMUNITY DEVELOPMENT COMMISSION
RESOLUTION 2010-148 IS AN ENFORCEABLE OBLIGATION AND
THAT THE LOAN WAS FOR LEGITIMATE REDEVELOPMENT PURPOSES

WHEREAS, the City Council established the Redevelopment Agency of the City of National City (the "Redevelopment Agency") by Ordinance No. 1164, dated April 11, 1967; and

WHEREAS, the City Council established the Housing Authority of the City of National City (the "Housing Authority") by Ordinance No. 1484, dated October 14, 1975; and

WHEREAS, the City Council established the Community Development Commission of the City of National City (the "CDC") by Ordinance No. 1484, dated October 14, 1975, and vested the CDC with all of the powers, duties and responsibilities of both the Redevelopment Agency and the Housing Authority, among other matters, for the purpose of enabling the CDC to operate and govern the Redevelopment Agency and the Housing Authority under a single board and as a single operating entity. The Community Development Commission of the City of National City acting in its capacity as the Redevelopment Agency of the City of National City is referred to herein as the "CDC-RDA"; and

WHEREAS, all California redevelopment agencies, including the Redevelopment Agency and the CDC-RDA, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, pursuant to AB 26, the City Council of the City adopted Resolution No. 2012-15 on January 10, 2012, electing to be the Successor Agency to the CDC-RDA. The Successor Agency is a legal entity that exists separate and independent from the City. The Successor Agency formally named itself the "Successor Agency to the Community Development Commission as the National City Redevelopment Agency"; and

WHEREAS, on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings and equipment of the Redevelopment Agency and the CDC-RDA were transferred by operation of law to the control of the Successor Agency and all authority, rights, powers, duties, and obligations previously vested in the Redevelopment Agency and the CDC-RDA were vested in the Successor Agency, for administration pursuant to Part 1.85 of AB 26; and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012). Although the primary purpose of AB 1484 is to make technical and substantive amendments to AB 26 based on issues that have arisen in the

implementation of AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down process of former redevelopment agencies; and

WHEREAS, under AB 26 as amended by AB 1484, each successor agency shall have an oversight board with fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property taxes and other revenues pursuant to Health and Safety Code Section 34188; and

WHEREAS, the oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in Health and Safety Code Sections 34179 through 34181 of AB 26 as amended by AB 1484; and

WHEREAS, pursuant to AB 26 as amended by AB 1484, loans between a dissolved redevelopment agency and its sponsoring entity are not eligible for repayment until the successor agency to the redevelopment agency in question (i) receives a Finding of Completion ("FOC") from the State of California Department of Finance ("DOF") and, (ii) pursuant to California Health and Safety Code section 34191.4(b)(2), the oversight board of the successor agency in question finds that the loan agreement in question, between the dissolved redevelopment agency and its sponsoring entity, is an enforceable obligation, and that the loan was for legitimate redevelopment purposes; and

WHEREAS, the Successor Agency secured a FOC from DOF on September 9, 2014; and

WHEREAS, on June 22, 2010 the CDC-RDA approved Resolution 2010-148, authorizing the use and expenditure of CDC-RDA tax increment funds in the amount of \$771,250 ("Increment Funds") toward the 2010 street resurfacing program of the City of National City ("City"); and

WHEREAS, the disbursement of the Increment Funds to the City was to take place over a three year period, and assist the City with its repayment of a \$1,500,000 loan from the City's Sewer Enterprise Fund ("Sewer Fund"), that loan from the Sewer Fund having enabled the City to carry out a \$4.0 million street resurfacing program in a one year period; and

WHEREAS, \$420,000 of Increment Funds remains to be paid by the CDC-RDA, now the Successor Agency, to the City under the terms of the loan agreement that provided for the CDC-RDA's expenditure of Increment Funds to the City's interest, for purposes of the City's repayment of funds borrowed from the Sewer Fund (the "Loan Agreement"); and

WHEREAS, pursuant to the Redevelopment Plan for the National City Redevelopment Project, the CDC-RDA was generally authorized to expend tax

increment funds for public improvements, including but not limited to street improvements; and

WHEREAS, the Successor Agency has determined that the Loan Agreement should be an enforceable obligation; and

WHEREAS, the Successor Agency requests that the Oversight Board determine that the Loan Agreement is an enforceable obligation and further that the Loan Agreement was made for legitimate redevelopment purposes; and

WHEREAS, AB 26 as amended by AB 1484 specifies controls and limitations upon any repayment of a loan between a dissolved redevelopment agency and its sponsoring entity, and will impact the terms of the Loan Agreement otherwise applicable to repayment by the Successor Agency to the City and Sewer Fund, such impact including but not being limited to the recalculation of interest due and the maximum amount that can be repaid in a year; and

WHEREAS, any loan repayment by the Successor Agency to the City and Sewer Fund will take place exclusively in the context of the process through which the Successor Agency and Oversight Board consider and approve recognized obligation payment schedules; and

WHEREAS, on February 18, 2015 in the course of taking action on an properly agendized item at a regular meeting, the Oversight Board considered whether the Loan Agreement is an enforceable obligation and was made for legitimate redevelopment purposes, and upon *(i)* consideration of all information and documentation presented by staff, *(ii)* all public comment and Oversight Board deliberation, if any, and *(iii)* the recommendation of the Successor Agency's staff, did independently adopt and approve this Resolution; and

WHEREAS, this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

WHEREAS, this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency, as follows:

- Section 1. The foregoing recitals are true and correct, and are a substantive part of this Resolution.
- Section 2. The Loan Agreement between the CDC-RDA (the former redevelopment agency) and the City, providing for a payment to the City, and ultimately for the City's repayment to the Sewer Fund, of Increment Funds, is an enforceable obligation and was made for legitimate redevelopment purposes.
- Section 3. The adoption of this Resolution is not intended to and shall not constitute a waiver by the Successor Agency of any rights the Successor Agency may have to challenge the effectiveness and/or legality of all or any portion of AB 26 or AB 1484 through administrative or judicial proceedings.
- Section 4. The Executive Director of the Successor Agency, or designee, is hereby authorized and directed to:
- (ii) take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Oversight Board; and
 - (i) take such other actions and execute such other documents as are necessary to effectuate the intent of AB 26 and AB 1484 in regard to the Successor Agency's repayment of \$420,000 to the City and ultimately to the Sewer Fund, under the Loan Agreement but subject to the controls and limitations imposed by AB 26 as amended by AB 1484. .
- Section 5. Oversight Board concurs with the Successor Agency's determination that approval of this Resolution does not represent a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.
- Section 6. The Oversight Board Secretary and/or Successor Agency Secretary shall certify to the adoption of this Resolution.
- Section 7. Pursuant to California Health and Safety Code Section 34179(h), the State of California Department of Finance may review Oversight Board action; therefore, this Resolution shall be effective on the date five (5) business days after its adoption, absent and pending any request for review by the State of California Department of Finance.

[Signature Page to Follow]

NOW, THEREFORE, BE IT RESOLVED that the foregoing resolution was duly and regularly adopted at a regular meeting of the Oversight Board for the Successor Agency to the Community Development Commission as the National City Redevelopment Agency held on the 18th day of February 2015, by the following vote:

AYES:

NOES:

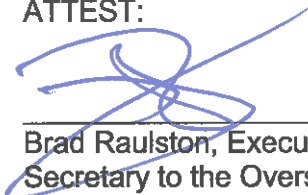
ABSENT:

ABSTAIN:




Ron Morrison, Chairman

ATTEST:



Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:



Oversight Board Counsel
Edward Z. Kotkin, Esq.
Law Offices of Edward Z. Kotkin