

RESOLUTION NUMBER R- 308313

DATE OF FINAL PASSAGE JUN 27 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING CERTAIN ACTIONS RELATED TO THE CITY'S DISBURSEMENT TO THE REDEVELOPMENT SUCCESSOR AGENCY OF LOAN FUNDS IN AN AMOUNT NOT TO EXCEED \$1,638,792 TO COVER A FUNDING SHORTFALL FOR ADMINISTRATIVE COSTS DURING THE TIME PERIOD OF THE THIRD RECOGNIZED OBLIGATION PAYMENT SCHEDULE

WHEREAS, from its formation in 1958 until its elimination on February 1, 2012, the Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas (Project Areas) throughout the City of San Diego (City); and

WHEREAS, the Former RDA dissolved as of February 1, 2012, in accordance with a deadline for elimination of all redevelopment agencies throughout California set forth in Assembly Bill x1 26 (AB 26), as modified by the California Supreme Court in a final opinion issued on December 29, 2011; and

WHEREAS, at the time of the Former RDA's dissolution, the City, in its capacity as the successor agency to the Former RDA (Successor Agency), became vested with all of the Former RDA's authority, rights, powers, duties, and obligations under the California Community Redevelopment Law and, by operation of law, received all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former RDA; and

WHEREAS, the Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, and Assembly Bill 1484 (AB 1484), enacted on June 27, 2012 (collectively, the Dissolution Laws); and

WHEREAS, the Oversight Board has been formed to oversee certain actions and decisions of the Successor Agency in accordance with the Dissolution Laws; and

WHEREAS, the San Diego County Auditor-Controller (County Auditor), the State Controller, and the State Department of Finance (DOF) also possess certain rights and obligations under the Dissolution Laws with respect to the Successor Agency's administration of the Former RDA's operations; and

WHEREAS, the Dissolution Laws require the Successor Agency to prepare a Recognized Obligation Payment Schedule (ROPS) and accompanying administrative budget for each six-month period on a forward-looking basis; and

WHEREAS, under the Dissolution Laws, the County Auditor administers and makes semi-annual distributions of monies from the Redevelopment Property Tax Trust Fund (RPTTF), which is comprised of incremental property taxes generated in the Project Areas; and

WHEREAS, the Successor Agency is entitled to receive an administrative cost allowance from each semi-annual distribution of monies from the RPTTF, and such allowance is limited during each fiscal year to an amount up to 3% of the RPTTF distribution to the Successor Agency for payment of enforceable obligations in that fiscal year (Cost Allowance); and

WHEREAS, under California Health and Safety Code section 34171(b), the Successor Agency is permitted to use funds other than property taxes to pay for administrative costs in the event that the Cost Allowance is insufficient to pay all costs shown in the Successor Agency's administrative budget; and

WHEREAS, under California Health and Safety Code section 34173(h), the City may grant or loan funds to the Successor Agency to pay the administrative costs of the Successor

Agency, to the extent that such costs will exceed the Cost Allowance and other available redevelopment funds; and

WHEREAS, any such City loan can be qualified as an enforceable obligation of the Successor Agency pursuant to California Health and Safety Code section 34173(h) if the repayment of the loan is reflected on a future ROPS and approved by the Oversight Board and the DOF; and

WHEREAS, the Successor Agency has reduced staffing levels significantly since the dissolution of the Former RDA and must maintain a minimum level of staffing in order to wind down the operations of the Former RDA and comply with the various requirements of the Dissolution Laws; and

WHEREAS, due to various determinations by the DOF on line items in the third ROPS covering the period of January through June 2013 (ROPS 3), the Cost Allowance of the Successor Agency for the ROPS 3 time period is \$1,388,792 lower than the amount specified in the Successor Agency's administrative budget accompanying ROPS 3; and

WHEREAS, in addition, the DOF reclassified the costs of the Oversight Board's independent legal counsel, originally estimated at up to \$250,000 during the ROPS 3 time period, as an administrative expense to be paid solely from the Cost Allowance; and

WHEREAS, as a result of these decisions by the DOF, the Successor Agency will experience a budget shortfall of up to \$1,638,792 for the payment of anticipated administrative costs during the ROPS 3 time period, although the final amount of the budget shortfall is expected to be substantially less; and

WHEREAS, the City and the Successor Agency filed a lawsuit in Sacramento County Superior Court on February 19, 2013, designated as Case No. 34-2013-80001411, against the

DOF and the County Auditor to address the budget shortfall for the payment of anticipated administrative costs during the ROPS 3 time period; and

WHEREAS, on March 26, 2013, the court issued an order denying the Successor Agency's requested injunction (Court Order), on the basis that the City could loan money to the Successor Agency in accordance with California Health and Safety Code section 34173(h) to cover any funding shortfall for the payment of administrative costs during the ROPS 3 time period; and

WHEREAS, in response to the Court Order, the City and the Successor Agency now propose to enter into the "Loan Agreement for ROPS 3 Administrative Costs" (Loan Agreement), a copy of which is included as Attachment D to Staff Report No. 13-11/13-09 presented by Civic San Diego to the Council; and

WHEREAS, consistent with the Court Order, the Loan Agreement requires the City to loan funds to the Successor Agency in an amount not to exceed \$1,638,792 (Loan Amount) to cover the funding shortfall for the Successor Agency's administrative costs during the ROPS 3 time period (i.e., January through June 2013); and

WHEREAS, the final Loan Amount will be equal to the aggregate amount of all disbursements from the City to, or for the benefit of, the Successor Agency for otherwise unfunded administrative costs during the ROPS 3 time period; and

WHEREAS, under the Loan Agreement, the Successor Agency must identify the full repayment of the Loan Amount, plus accrued interest, as an enforceable obligation in one or more future ROPS, commencing with the fifth ROPS covering the period of January through June 2014 (ROPS 13-14B); and

WHEREAS, to the extent that the Oversight Board and the DOF approve the Successor Agency's repayment of the Loan Amount as an enforceable obligation in a future ROPS and that sufficient funds are transferred to the Successor Agency from the RPTTF by the County Auditor, the Successor Agency must repay the outstanding balance of the Loan Amount plus accrued interest to the City; and

WHEREAS, the Loan Agreement requires the Successor Agency to exercise good faith efforts and to pursue all available administrative remedies to ensure that the repayment of the Loan Amount is qualified as an enforceable obligation to be repaid to the City utilizing future RPTTF distributions; and

WHEREAS, to the extent that sufficient RPTTF distributions for repayment of the Loan Amount are unavailable to the Successor Agency despite its exercise of good faith efforts, the unpaid portion of the disbursed Loan Amount will be treated as a contribution or grant of funds to the Successor Agency and an expense to the City; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. The Council hereby approves the Loan Agreement, which provides for the City's disbursement to the Successor Agency of the Loan Amount not to exceed \$1,638,792 to cover the funding shortfall for the Successor Agency's administrative costs during the ROPS 3 time period (i.e., January through June 2013).

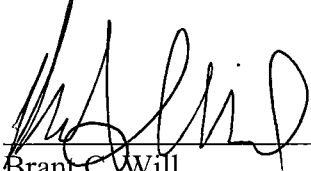
2. The Mayor or designee is authorized and directed to execute the Loan Agreement, on the City's behalf, and to carry out the City's obligations under the Loan Agreement. A fully-executed copy of the Loan Agreement shall be placed on file in the Office of the City Clerk as

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3. The Chief Financial Officer is authorized to appropriate and expend up to \$1,638,792 from General Fund Reserves for the purpose of allowing the City to disburse loan funds to, or for the benefit of, the Successor Agency under the Loan Agreement.

4. The Chief Financial Officer is authorized and directed to cause the disbursement of the Loan Amount from the City to, or for the benefit of, the Successor Agency in an amount not to exceed \$1,638,792 in accordance with the Loan Agreement.

APPROVED: JAN I. GOLDSMITH, City Attorney

By  _____
Brant C. Will
Deputy City Attorney

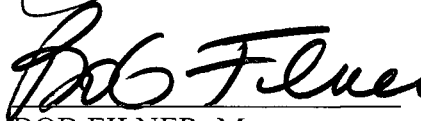
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06/14/13
Or.Dept: Civic San Diego
Doc. No. 579911
Comp. R-2013-795

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 6/25/13.

ELIZABETH S. MALAND
City Clerk

By  _____
Deputy City Clerk

Approved: 6/27/13
(date)

 _____
BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor

Passed by the Council of The City of San Diego on JUN 25 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

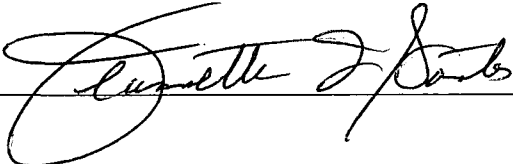
Date of final passage JUN 27 2013.

AUTHENTICATED BY:

BOB FILNER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California
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