

RESOLUTION NUMBER R- 308750

DATE OF FINAL PASSAGE FEB 10 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, ACTING IN ITS CAPACITY AS THE BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, APPROVING CERTAIN ACTIONS RELATED TO THE REINSTATEMENT OF A LOAN AGREEMENT CONCERNING BOND DEBT FOR THE PHASE II EXPANSION OF THE SAN DIEGO CONVENTION CENTER.

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 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 on a forward-looking basis, and to submit for approval by the Oversight Board and the DOF, a Recognized Obligation Payment Schedule (ROPS) identifying payments owed by the Successor Agency to third parties toward enforceable obligations during each upcoming six-month period; 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 City's redevelopment project areas; and

WHEREAS, California Health and Safety Code (Code) section 34191.4(b) enables the Successor Agency and the City to reinstate, subject to certain conditions and on modified terms, any loan agreements between the Former RDA and the City that the State previously invalidated as a result of the general rule in Code section 34178 that purports to invalidate most agreements, contracts or arrangements between any redevelopment agency and its sponsoring city; and

WHEREAS, Code section 34191.4(b)(1), as interpreted by the DOF, requires the following conditions to be satisfied before reinstatement of an invalidated loan may occur: (i) the Successor Agency must have obtained the finding of completion from the DOF pursuant to Code section 34179.7 (the Successor Agency obtained this finding on December 2, 2013); (ii) the

Oversight Board must adopt a resolution that both approves the reinstated loan as an enforceable obligation and makes a finding to the effect that the invalidated loan was for legitimate redevelopment purposes; and (iii) the DOF must approve the Oversight Board's pertinent resolution; and

WHEREAS, Code section 34191.4(b)(2), as interpreted by the DOF, imposes several modified terms and limitations on a reinstated loan, such as: (a) an annual "cap" on the maximum repayment amount on all reinstated loans in any given fiscal year, equal to fifty percent (50%) of the increase between the residual balance amount distributed to the local taxing entities in the 2012-13 base fiscal year and the actual residual balance amount distributed to the local taxing entities during any subsequent fiscal year (50% Increase Formula); (b) the retroactive recalculation of accumulated interest on the remaining principal amount of the loan from the date of loan origination at the interest rate applicable to funds deposited into the Local Agency Investment Fund (LAIF Rate); (c) the deduction of twenty percent (20%) of any reinstated loan payment from the loan payment amount and the transfer of this deducted amount to the City's Low and Moderate Income Housing Asset Fund; and (d) the need for repayment of the reinstated loan in accordance with a defined schedule over a reasonable term of years; and

WHEREAS, the City and the Former RDA entered into that certain Cooperation Agreement for Reimbursement of Costs Associated with the Expansion of the San Diego Convention Center dated April 1, 2011, on file in the City Clerk's Office as Document No. RR-306734 (Original Debt Agreement); and

WHEREAS, under the Original Debt Agreement, the Former RDA agreed to make annual payments to the City in accordance with an established schedule in order to reimburse the City for its bond debt service obligation related to the issuance in 1998 of Lease Revenue Bonds,

Series 1998A (1998 Bond Financing) used to finance the cost of the Phase II expansion of the San Diego Convention Center (Phase II Improvements) located on land within the Centre City Redevelopment Project Area (Project Area) and owned by the Port of San Diego (Port); and .

WHEREAS, the 1998 Bond Financing obligation for the Phase II Improvements equaled \$205,000,000 upon the date of origination, and approximately \$156.8 million of the 1998 Bond Financing obligation remained outstanding at the time of execution of the Original Debt Agreement, with the City owing bond debt service payments of approximately \$13.7 million per year through the 2027-28 fiscal year, except that the Port had agreed to make an annual contribution of approximately \$4.5 million through the 2013-14 fiscal year; and

WHEREAS, the Former RDA's annual payments to the City contemplated by the Original Debt Agreement equaled a total of \$228,570,688, which reflected outstanding principal and scheduled interest payments on the 1998 Bond Financing obligation as of April 1, 2011; and

WHEREAS, the annual payments under the Original Debt Agreement commenced at \$2 million in the 2011-12 fiscal year, then escalated by \$500,000 in each successive fiscal year through the 2025-26 fiscal year, then remained at \$9 million through the 2041-42 fiscal year, with a final payment of \$2,070,688 in the 2042-43 fiscal year; and

WHEREAS, the Former RDA and the Successor Agency made the first two annual installment payments to the City under the Original Debt Agreement in the aggregate amount of \$4.5 million; and

WHEREAS, in a revised final determination letter dated December 27, 2012, the DOF disallowed the Original Debt Agreement as an enforceable obligation during its review of the third ROPS covering the time period of January through June 2013; and

WHEREAS, as of April 15, 2012, the City caused the 1998 Bond Financing to be refinanced through Lease Revenue Refunding Bonds, Series 2012A (2012 Bond Refinancing) for the Phase II Improvements in the principal amount of \$140,440,000, and the City presently owes an annual bond debt service obligation of approximately \$12.4 million through the 2027-28 fiscal year; and

WHEREAS, the remaining principal balance of the 2012 Bond Refinancing obligation is presently \$133,030,000, which reflects payments made by the City since April 15, 2012; and

WHEREAS, the Successor Agency and the City now propose to enter into that certain Reinstated Loan Agreement Pertaining to Phase II Expansion of San Diego Convention Center (Reinstated Loan Agreement), a copy of which is included as Attachment A to Staff Report No. CSD-14-03 / 14-04 dated February 5, 2014 accompanying this Resolution; and

WHEREAS, the Reinstated Loan Agreement contemplates the Successor Agency's repayment of a total amount of \$133,664,109.67 (Reinstated Loan Amount) to the City utilizing monies available from RPTTF distributions corresponding to each six-month ROPS time period after applying the 50% Increase Formula; and

WHEREAS, the Reinstated Loan Amount equals the remaining principal balance of the 2012 Bond Refinancing obligation of \$133,030,000, plus accumulated interest of \$634,109.67 based on the recalculation of interest at the LAIF Rate from the date of loan origination (April 15, 2012) until the anticipated date of the Oversight Board meeting for approval of the Reinstated Loan Agreement (February 11, 2014); and

WHEREAS, the Reinstated Loan Amount shall continue to accrue interest at the LAIF Rate, as such rate is adjusted on a quarterly basis, until fully repaid; and

WHEREAS, the Reinstated Loan Agreement requires the Successor Agency to identify the Reinstated Loan Agreement, including the full repayment of the Reinstated Loan Amount plus accrued interest, as an enforceable obligation in the sixth ROPS covering the time period of July through December 2014 (ROPS 14-15A) and to request an allocation of property taxes from the residual balance of the RPTTF for this purpose on a semi-annual basis in ROPS 14-15A and in each ensuing ROPS to the extent that sufficient funds are available in the residual balance under the 50% Increase Formula; and

WHEREAS, the Reinstated Loan Agreement requires the Successor Agency to exercise good faith efforts to repay the Reinstated Loan Amount by the end of the 2027-28 fiscal year, consistent with the 2012 Bond Refinancing, or as soon thereafter as may be practicable; provided, however, that the Successor Agency's actual repayments to the City in any given fiscal year shall take into account both (i) the available residual balance funds under the 50% Increase Formula in any given fiscal year and (ii) the potential reinstatement of other invalidated loan agreements between the City and the Former RDA and the corresponding need for a funding source for repayment of such other reinstated agreements; and

WHEREAS, consistent with Code section 34191.4(b), the Reinstated Loan Agreement requires the Successor Agency to deduct twenty percent (20%) of any semi-annual loan repayment from the loan repayment amount and to transfer this deducted amount to the City's Low and Moderate Income Housing Asset Fund to be used by the City, as the housing successor to the Former RDA, for valid affordable housing purposes; and

WHEREAS, the effectiveness of the Reinstated Loan Agreement shall be contingent upon the approval of the Reinstated Loan Agreement as an enforceable obligation by the

Oversight Board and the DOF, as well as the continued availability of sufficient RPTTF distributions to make installment payments toward the Reinstated Loan Amount; and

WHEREAS, the City acknowledges in the Reinstated Loan Agreement that, to the extent that sufficient RPTTF distributions are unavailable to the Successor Agency despite its exercise of good faith efforts, the Reinstated Loan Amount may not ultimately be repaid in full; and

WHEREAS, the Phase II Improvements, and the related bond financing evidenced by the 1998 Bond Financing, the 2012 Bond Refinancing and the Original Debt Agreement, carried out legitimate redevelopment purposes in that they involved the continued effort to revitalize, and eliminate blight within, the Project Area and achieved the objectives of the applicable five-year implementation plan for the Project Area; and

WHEREAS, the legitimate redevelopment purposes served by the Phase II Improvements and the related bond financing are more specifically described in the companion resolutions adopted by the City Council on April 1, 2011 in connection with the approval of the Original Debt Agreement, as well as the related summary report previously considered by the City Council in accordance with Code sections 33445 and 33679, and all such documents are included collectively as Exhibit 2 to the Reinstated Loan Agreement and incorporated fully into this Resolution by this reference; and

WHEREAS, under Charter section 265(i), resolutions adopted by the City Council are not subject to veto pending an election to fill the vacancy in the Office of the Mayor, but the Council President, during the period of vacancy, generally has the authority to approve resolutions in circumstances where expeditious approval is necessary to meet a legal requirement imposed by a court or another governmental agency; and

WHEREAS, the statutory deadline for the Successor Agency's transmittal of the Oversight Board-approved version of ROPS 14-15A to the DOF is March 1, 2014, and consistent with its past practice, the Oversight Board has requested the scheduling of two meetings related to ROPS 14-15A, the first of which will occur at 2:00 p.m. on February 11, 2014; and

WHEREAS, the Successor Agency will seek the Oversight Board's approval of the Reinstated Loan Agreement during the meeting on February 11, 2014, so that the first semi-annual payment under the Reinstated Loan Agreement may be included in ROPS 14-15A; and

WHEREAS, in light of these circumstances, it is requested that the Council President approve this Resolution expeditiously so that it will become effective before the Oversight Board considers approval of the Reinstated Loan Agreement on February 11, 2014; and

WHEREAS, all references in the authorized action items of this Resolution to "Mayor" are intended to refer to the elected Mayor or the Council President (during the period of vacancy in the Office of the Mayor), as may be applicable upon the occurrence of each applicable authorized action item; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, acting in its capacity as the board of the Successor Agency, as follows:

1. The Council finds and determines that the foregoing recitals are true and correct.
2. The Council received and heard any and all oral and written objections relating to the Reinstated Loan Agreement, and to other matters pertaining to this transaction, and all such oral and written objections are overruled.
3. The Council finds that the Phase II Improvements at the San Diego Convention Center, and the related bond financing evidenced by the 1998 Bond Financing, the 2012 Bond Refinancing and the Original Debt Agreement, were for legitimate redevelopment purposes.

4. The Council approves the Reinstated Loan Agreement, which provides for the Successor Agency's repayment to the City of the Reinstated Loan Amount of \$133,644,109.67 for the Phase II Improvements, utilizing monies available through the RPTTF distributions corresponding to each six-month ROPS time period.

5. The Mayor or designee is authorized and directed to execute the Reinstated Loan Agreement, on the Successor Agency's behalf, and to carry out the Successor Agency's obligations under the Reinstated Loan Agreement. A fully-executed copy of the Reinstated Loan Agreement shall be placed on file in the Office of the City Clerk as Document No. RR-308749

6. Successor Agency staff is authorized and directed to include the Reinstated Loan Agreement, including the full repayment of the Reinstated Loan Amount plus accrued interest, as an enforceable obligation line item in ROPS 14-15A and to request an allocation of property taxes for this purpose from the residual balance of the RPTTF on a semi-annual basis in ROPS 14-15A and in each ensuing ROPS to the extent that sufficient funds are available in the residual balance under the formula in Code section 34191.4(b)(2) imposing a maximum annual limitation on aggregate repayments toward reinstated loan agreements.

7. The City Comptroller is authorized to cause the Successor Agency's transfer of all semi-annual installment payments of the Reinstated Loan Amount to the City under the Reinstated Loan Agreement until the Reinstated Loan Amount has been fully repaid and to allocate all such installment payments as follows: (a) twenty percent (20%) to the City's Low

and Moderate Income Housing Asset Fund (Fund No. 200708), to be used by the City, as housing successor to the Former RDA, for valid affordable housing purposes; and (b) eighty percent (80%) to City's General Fund (Fund No. 100000).

APPROVED: JAN I. GOLDSMITH, City Attorney

By Kevin Reisch
Kevin Reisch
Chief Deputy City Attorney

KJR:nja
02/05/14
Or.Dept: Civic San Diego
Doc. No. 715466
Comp. R-2014-451

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 02/10/2014.

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved pursuant to Charter section 265(i):

2/10/2014
(date)

[Signature]
TODD GLORIA, Council President

Passed by the Council of The City of San Diego on FEB 10 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

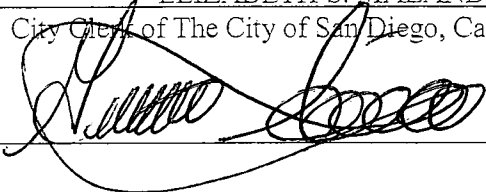
Date of final passage FEB 10 2014.

(Please note: When a resolution is approved by the Council President as interim Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA, COUNCIL PRESIDENT
as interim 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
Resolution Number R- 308750