



**MEMORANDUM**

**TO:** HONORABLE CHAIR AND MEMBERS OF THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE RANCHO PALOS VERDES REDEVELOPMENT AGENCY

**FROM:** DENNIS McLEAN, FINANCE OFFICER 

**DATE:** MARCH 4, 2014

**SUBJECT:** REESTABLISHMENT AGREEMENT FOR CITY'S CONSOLIDATED LOAN TO THE FORMER REDEVELOPMENT AGENCY

**REVIEWED:** CAROLYNN PETRU, ACTING EXECUTIVE DIRECTOR 

Staff Coordinator: Kathryn Downs, Deputy Director of Finance & Information Technology 

**RECOMMENDATION**

Adopt Resolution No. SA 2014\_\_\_\_\_, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE RANCHO PALOS VERDES REDEVELOPMENT AGENCY APPROVING THE EXECUTION OF A REESTABLISHMENT AGREEMENT BETWEEN THE SUCCESSOR AGENCY AND THE CITY OF RANCHO PALOS VERDES.

**BACKGROUND AND DISCUSSION**

Recommended Action

Successor Agency legal counsel has recommended that the City and the Successor Agency enter into a Loan Reestablishment Agreement expressly stating that the City's Consolidated Loan (Loan) is to be repaid under the requirements of redevelopment dissolution law. The Agreement would memorialize the reestablishment of the Loan in accordance with the repayment formula set forth in Health and Safety Code Section 34191.4, as described below. This same recommended action has been placed on the City Council's March 4, 2014 agenda.

A status of redevelopment dissolution was presented to the Successor Agency Board on

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December 3, 2013. As reported at that time, one of the next steps in the dissolution process is to obtain approval from both the Oversight Board and California Department of Finance (DOF) for the Loan, and begin receiving repayments to the City's General Fund.

## Balance of the Loan

The outstanding principal balance of the Loan is \$6,742,776. As of June 30, 2012, the Loan balance was \$19.3 million, which included accrued interest of \$12.5 million. Per the Loan agreement between the City and former Rancho Palos Verdes Redevelopment Agency (RDA), the Loan accrued interest at the Local Agency Investment Fund (LAIF) rate plus three percent.

Dissolution law limits the accrued interest on the Loan to the LAIF rate. As of June 30, 2012, the Loan balance was \$12.1 million including accrued interest of \$5.3 million (at the reduced rate). As reported previously on December 3, 2013, the balance has been calculated using Staff's interpretation of dissolution law, which differs from the DOF interpretation of the law. Staff's interpretation is shared by many peers and follows the logic of General Accepted Accounting Principles. Both Staff and Successor Agency legal counsel agree that this difference of opinion may be litigated by other agencies in the future.

Loan repayment is subject to the availability of revenue from the Redevelopment Property Tax Trust Fund (RPTTF). It is uncertain when and how much RPTTF will be available in the future. Therefore, the City's independent financial statement auditor recommended establishment of an allowance for the full amount of the Loan on the City's June 30, 2013 Balance Sheet. The result is that the City's General Fund balance does not include the Loan. This is not a substantive change from prior reporting where the principal balance of the Loan was offset with a reservation of General Fund balance, and the accrued interest of the Loan was offset with a deferred revenue liability; whereby the City's spendable General Fund balance (the General Fund Reserve) did not include the Loan. Repayment of the Loan has never been included in the City's budget or Five-Year Financial Model.

## Approval of the Loan

On December 11, 2013, the Oversight Board made a finding that the Loan was made for legitimate redevelopment purposes. On January 27, 2014, Staff received notification that the DOF approved the Oversight Board's finding, and that the Loan may be added to the Recognized Obligation Payment Schedule (ROPS).

## Repayment of the Loan

On February 26, 2014, the Oversight Board approved repayment of the Loan in accordance with dissolution law that provides for a repayment formula whereby the City may receive 50% of the residual distribution of RPTTF to taxing entities in the

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redevelopment area. Of this 50% distribution, 20% must be deposited into the City's low and moderate income housing fund and 80% may be deposited into the City's General Fund.

On February 26, 2014, the Oversight Board also approved ROPS 14-15A for the six-month period of July through December 2014. The ROPS was approved with a maximum repayment of the Loan in the amount of \$36,458, of which \$7,292 would be deposited into the City's low and moderate income housing fund and \$29,166 would be deposited into the City's General Fund.

Attachment:

Resolution No. SA 2014\_\_\_\_\_, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE RANCHO PALOS VERDES REDEVELOPMENT AGENCY APPROVING THE EXECUTION OF A REESTABLISHMENT AGREEMENT BETWEEN THE SUCCESSOR AGENCY AND THE CITY OF RANCHO PALOS VERDES

RESOLUTION NO. SA 2014-\_\_\_\_\_

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE RANCHO PALOS VERDES REDEVELOPMENT AGENCY APPROVING THE EXECUTION OF A REESTABLISHMENT AGREEMENT BETWEEN THE SUCCESSOR AGENCY AND THE CITY OF RANCHO PALOS VERDES**

**RECITALS:**

A. Pursuant to AB X1 26 (enacted in June 2011), as modified by the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal.4th 231(2011), the Rancho Palos Verdes Redevelopment Agency (the "Former Agency") was dissolved as of February 1, 2012, the Successor Agency was established, and an oversight board to the Successor Agency (the "Oversight Board") was established.

B. Pursuant to Health and Safety Code Section 34171(d)(2), enforceable obligations of the Former Agency do not include the Consolidated Loan Agreement between the City of Rancho Palos Verdes and the Former Agency, on file in the office of the Successor Agency Secretary (the "Original Loan Agreement" or "Original Loan").

C. Pursuant to the Health and Safety Code Section 34191.4(b)(1), notwithstanding Health and Safety Code Section 34171(d)(2), the Original Loan Agreement shall be deemed to be an enforceable obligation provided the State Department of Finance (the "DOF") has issued a finding of completion to the Successor Agency pursuant to Health and Safety Code Section 34179.7 (the "Finding of Completion") and the Oversight Board makes a finding that the Original Loan Agreement was for legitimate redevelopment purposes.

D. The DOF issued a Finding of Completion to the Successor Agency on April 26, 2013.

E. By its Resolution No. OB 2013-09, the Oversight Board found that the Original Loan Agreement was for legitimate redevelopment purposes.

F. By its letter dated January 27, 2014, the DOF approved Oversight Board Resolution No. 2013-09, and stated that the Successor Agency may now place the Original Loan Agreement on a Recognized Obligation Payment Schedule ("ROPS") commencing with ROPS 14-15A, provided that the repayment of the Loan Agreement is subject to the repayment formula outlined in Health and Safety Code Section 34191.4.

G. Pursuant to Health and Safety Code Section 34191.4(b)(2), the accumulated interest on the remaining principal amount of the Original Loan shall be recalculated from origination at the interest rate earned by funds deposited in the Local

Agency Investment Fund ("LAIF"). The Original Loan shall be repaid to the City 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 LAIF; the maximum repayment amount authorized each fiscal year shall be equal to one-half of the increase between the amount distributed to taxing entities pursuant to Health and Safety Code Section 34183(a)(4) in that fiscal year and the amount distributed to taxing entities pursuant to Section 34183(a)(4) in the 2012-13 base year; and twenty percent of each Original Loan Agreement repayment shall be deducted and transferred to the Low and Moderate Income Housing Asset Fund established by the City as the successor to the housing functions and assets of the Former Agency.

H. By its Resolution No. OB 2014-01, the Oversight Board (i) found that the Original Loan Agreement, as modified in accordance with the provisions of Health and Safety Code Section 34191.4, is reestablished and constitutes an enforceable obligation; (ii) approved the repayment of the Original Loan Agreement in accordance with a repayment schedule which meets the requirements of Health and Safety Code Section 34191.4 and which provides for the inclusion on each ROPS, commencing with ROPS 14-15A, of up to the maximum repayment amount, calculated in accordance with Health and Safety Code Section 34191.4, until the Original Loan Agreement has been paid in full, including all accumulated and accrued interest thereon; and (iii) found that repayment of the Original Loan Agreement in accordance with such repayment schedule provides for repayment over a reasonable term of years.

I. The Successor Agency and the City desire to enter into an agreement to evidence the reestablishment of the Original Loan in accordance with the requirements of Health and Safety Code Section 34191.4.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE RANCHO PALOS VERDES REDEVELOPMENT HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:**

**Section 1.** The above recitals are true and correct and are a substantive part of this Resolution.

**Section 2.** The Reestablishment Agreement, in the form attached hereto as Exhibit A, is hereby approved. Each of the Chair, the Vice Chair and the Executive Director (each, an "Authorized Officer"), acting individually, is hereby authorized to execute and deliver, for and in the name of the Successor Agency, the Reestablishment Agreement, in substantially such form, with changes therein as the Authorized Officer executing the Agreement may approve (such approval to be conclusively evidenced by the Authorized Officer's execution and delivery thereof).

**Section 3.** The Authorized Officers and all other officers of the Successor Agency are hereby authorized, jointly and severally, to execute and deliver any and all necessary documents and instruments and to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution and the Reestablishment Agreement.

**PASSED AND ADOPTED** this 4<sup>th</sup> day of March 2014.

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CHAIR

**ATTEST:**

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SECRETARY

**EXHIBIT A**

(see attached)

## REESTABLISHMENT AGREEMENT

This **REESTABLISHMENT AGREEMENT** (this "Reestablishment Agreement"), dated as of \_\_\_\_\_, 2014, is entered into by and between the CITY OF RANCHO PALOS VERDES (the "City") and the SUCCESSOR AGENCY TO THE RANCHO PALOS VERDES REDEVELOPMENT AGENCY (the "Successor Agency," and together with the City, the "Parties," with each being a "Party").

### RECITALS:

A. Pursuant to AB X1 26 (enacted in June 2011), as modified by the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal.4th 231(2011), the Rancho Palos Verdes Redevelopment Agency (the "Former Agency") was dissolved as of February 1, 2012, the Successor Agency was established, and an oversight board to the Successor Agency (the "Oversight Board") was established.

B. Pursuant to Health and Safety Code Section 34171(d)(2), enforceable obligations of the Former Agency do not include the Consolidated Loan Agreement between the City of Rancho Palos Verdes and the Former Agency, on file in the office of the Successor Agency Secretary (the "Original Loan Agreement" or "Original Loan").

C. Pursuant to the Health and Safety Code Section 34191.4(b)(1), notwithstanding Health and Safety Code Section 34171(d)(2), the Original Loan Agreement shall be deemed to be an enforceable obligation provided the State Department of Finance (the "DOF") has issued a finding of completion to the Successor Agency pursuant to Health and Safety Code Section 34179.7 (the "Finding of Completion") and the Oversight Board makes a finding that the Original Loan Agreement was for legitimate redevelopment purposes.

D. The DOF issued a Finding of Completion to the Successor Agency on April 26, 2013.

E. By its Resolution No. OB 2013-09, the Oversight Board found that the Original Loan Agreement was for legitimate redevelopment purposes.

F. By its letter dated January 27, 2014, the DOF approved Oversight Board Resolution No. 2013-09, and stated that the Successor Agency may now place the Original Loan Agreement on a Recognized Obligation Payment Schedule ("ROPS") commencing with ROPS 14-15A, provided that the repayment of the Loan Agreement is subject to the repayment formula outlined in Health and Safety Code Section 34191.4.

G. Pursuant to Health and Safety Code Section 34191.4(b)(2), the accumulated interest on the remaining principal amount of the Original Loan shall be recalculated from origination at the interest rate earned by funds deposited in the Local Agency Investment Fund ("LAIF"). The Original Loan shall be repaid to the City 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 LAIF; the maximum repayment amount authorized each fiscal year shall be equal to one-half of the increase between the amount distributed to taxing entities pursuant to Health and Safety Code Section 34183(a)(4) in that fiscal year and the amount distributed to taxing entities pursuant to Section 34183(a)(4) in the 2012-13 base year; and twenty percent of each Original Loan Agreement repayment shall be deducted and transferred to the Low and Moderate Income Housing Asset Fund established by the City as the successor to the housing functions and assets of the Former Agency.

H. As of the dated date of this Reestablishment Agreement, the remaining principal amount of the Original Loan is \$6,742,776.

I. By its Resolution No. OB 2014-01, the Oversight Board (i) found that the Original Loan Agreement, as modified in accordance with the provisions of Health and Safety Code Section 34191.4, is reestablished and constitutes an enforceable obligation; (ii) approved the repayment of the Original Loan Agreement in accordance with a repayment schedule which meets the requirements of Health and Safety Code Section 34191.4 and which provides for the inclusion on each ROPS, commencing with ROPS 14-15A, of up to the maximum repayment amount, calculated in accordance with Health and Safety Code Section 34191.4, until the Original Loan Agreement has been paid in full, including all accumulated and accrued interest thereon; and (iii) found that repayment of the Original Loan Agreement in accordance with such repayment schedule provides for repayment over a reasonable term of years.

J. The Successor Agency and the City are entering into this Reestablishment Agreement to evidence the reestablishment of the Original Loan in accordance with the requirements of Health and Safety Code Section 34191.4.

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

Section 1. The above recitals are true and correct and are a substantive part of this Reestablishment Agreement.

Section 2. This Reestablishment Agreement shall not become effective until it has been approved by the Oversight Board by resolution and the Department of Finance has approved such resolution or the resolution is deemed approved by the Department of Finance pursuant to Health and Safety Code Section 34179(h).

Section 3. The Parties acknowledge and agree that the Original Loan is reestablished in accordance with the requirements of Health and Safety Code Section 34191.4 and the provisions of this Reestablishment Agreement.

Section 4. The Successor Agency agrees to repay the Original Loan in accordance with the requirements of Health and Safety Code Section 34191.4, and as described herein, until the Original Loan has been paid in full, including all accumulated and accrued interest on the Original Loan. The Successor Agency agrees to include up to the maximum authorized repayment amount, as described herein for the repayment of the Original Loan on each Recognized Obligation Payment Schedule ("ROPS"),

commencing with ROPS 14-15A, and to remit to the City such amounts within a reasonable time after each distribution of moneys to the Successor Agency from the Redevelopment Property Tax Trust Fund.

Section 5. The Parties agree to take all appropriate steps and execute any documents which may reasonably be necessary or convenient to implement the intent of this Reestablishment Agreement.

Section 6. The Parties shall maintain records of all the repayments of the Original Loan made by the Successor Agency to the City and the City shall maintain records of all deductions from the City Loan repayments transferred to the Low and Moderate Income Housing Asset Fund. Such records will be available for inspection by the Parties at all reasonable times.

Section 7. This Reestablishment Agreement may be amended at any time, and from time to time, in writing by the Parties.

Section 8. This Reestablishment Agreement shall terminate when the Original Loan has been paid in full, including all accumulated and accrued interest thereon.

Section 9. Except as expressly set forth herein or as required by Health and Safety Code Section 34191.4, the provisions of the Original Loan Agreement remain in full force and effect. In the event of a conflict between the provisions of the Original Loan Agreement and Health and Safety Code Section 34191.4, the provisions of Section 34191.4 shall prevail.

Section 10. If any one or more of the covenants or agreements provided in this Reestablishment Agreement on the part of the City or the Successor Agency to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Reestablishment Agreement.

Section 11. All the covenants, promises and agreements in this Reestablishment Agreement contained by or on behalf of the Successor Agency or the City shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

Section 12. This Reestablishment Agreement is made in the State of California under the Constitution and laws of the State of California, and is to be so construed.

IN WITNESS WHEREOF, the Parties have caused this Reestablishment Agreement to be executed by their duly authorized representatives.

**CITY OF RANCHO PALOS VERDES**

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
City Clerk

**SUCCESSOR AGENCY TO THE  
RANCHO PALOS VERDES  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Chair

Attest:

By: \_\_\_\_\_  
Secretary

**APPROVED:**

**OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY TO THE  
RANCHO PALOS VERDES  
REDEVELOPMENT AGENCY**

By \_\_\_\_\_  
Chair