

RESOLUTION NO. OB-11

RESOLUTION OF THE OVERSIGHT BOARD OF DIRECTORS FOR THE SUCCESSOR AGENCY OF THE SCOTTS VALLEY REDEVELOPMENT AGENCY APPROVING LOAN AGREEMENT BETWEEN THE SUCCESSOR AGENCY AND THE CITY OF SCOTTS VALLEY UNDER HEALTH AND SAFETY CODE SECTION 34173 (h) FOR AB 1484 AUTHORIZED ENFORCEABLE OBLIGATIONS AND ADMINISTRATIVE EXPENDITURES

WHEREAS, in accord with the provisions of the California Community Redevelopment Law (Health and Safety Code Section 33000, et seq. ("CRL"), the City Council of the City of Scotts Valley ("City") previously established the Redevelopment Agency of the City of Scotts Valley, a public body, corporate and politic ("Agency") to carry out the purposes of and exercise the powers granted to community redevelopment agencies under the CRL; and

WHEREAS, on February 1, 2012, the Agency was dissolved pursuant to Assembly Bill 1X26 (Stats. 2011, 1st Ex. Sess., Ch. 5) ("AB 26"), and its rights, posers, duties and obligations were transferred to a "successor agency" (as defined by CRL Section 34171 (j) and Section 34173); and

WHEREAS, the City Council determined that the City would become the Agency's successor agency ("Successor Agency") under CRL Section 34173; and

WHEREAS, pursuant to Section 34179, an oversight board ("Oversight Board") was established for the Successor Agency; and

WHEREAS, with the Oversight Board's approval, CRL Section 34173 (h) permits the City to loan the Successor Agency funds to pay the Successor Agency's enforceable obligations, administrative costs, and project-related expenses; and

WHEREAS, immediately prior to the December 2011 distribution of property tax increment, the Agency's funds reflected a negative cash balance and, following the County Auditor-Controller's subsequent adjustment to the Successor Agency's June 2012 distribution from the RPTTF to reflect the December 2011 property tax distributions, the Successor Agency lacked the funds required to meet the entirety of its obligations arising under the Recognized Obligation Payment Schedule for the period of July 1, 2012 through December 31, 2012; and

WHEREAS, the State Department of Finance has disallowed certain enforceable obligations listed on the Agency's Recognized Obligation Payment Schedule for the period of January 1, 2013 through June 30, 2013, the Successor Agency will lack the funds to meet the entirety of its obligations for this time period; and

WHEREAS, the City and the Successor Agency have prepared an agreement entitled "Loan Agreement for Enforceable Obligations, Administrative Costs and Project-Related Expenses" ("Loan Agreement") (a copy of which is attached as Exhibit "A") providing for a loan ("Loan") from the City to the Successor Agency in the amount of One Million One Hundred Seventy One Thousand Two Hundred Twenty Eight Dollars (\$1,171,228); and

WHEREAS, the City and Successor Agency desire to approve the Loan Agreement and make the Loan from the funding sources described below.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY OF THE SCOTTS VALLEY REDEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Under the authority of CRL Section 34173 (h), the Agency approves the Loan Agreement, in the form attached as Exhibit "A".

Section 2. The Board directs the Executive Director to execute the Loan Agreement on behalf of the Agency upon approval of the Oversight Board and the State Department of Finance. The Executive Director is further authorized, with the concurrence of the Agency's legal counsel, to approve technical, non-substantive amendments to the Loan Agreement on the Agency's behalf and to otherwise carry out the actions authorized by this Resolution.

Section 3. The City Council directs that the Loan be funded from the City's General Fund. This Loan amount is to be repaid to the General Fund upon the terms of the Loan Agreement, including interest.

Section 4. The approval and other actions authorized by this Resolution will become effective as provided by CRL Section 34179 (h).

PASSED AND ADOPTED by the Board of Directors of the Successor Agency of the Scotts Valley Redevelopment Agency this 27th day of February 2013, by the following vote:

AYES: BUSTICHI, CABIGAS, CLARK, DILLES, KATES, MCPHERSON, ZIEL
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

APPROVED: _____

Dene Bustichi, Chair

ATTEST: _____

Tracy A. Ferrara, Secretary

**LOAN AGREEMENT FOR ENFORCEABLE OBLIGATIONS,
ADMINISTRATIVE COSTS AND PROJECT RELATED EXPENSES**

ARTICLE I.

PARTIES AND EFFECTIVE DATE

- 1.1 Parties. This Loan Agreement for Enforceable Obligations, Administrative Costs and Project Related Expenses (“Agreement”) is dated as of this 16th day of January, 2013. This Agreement is entered into by and between the City of Scotts Valley, a municipal corporation (“City”) and the Successor Agency of the Scotts Valley Redevelopment Agency (“Agency”), formed and existing in accord with Section 34173 of the California Community Redevelopment Law (“CRL”)(Health & Safety Code section 33000, et seq.).
- 1.2 Effective Date. This Agreement will not become effective until the date (“Effective Date”) all of the following have occurred:
- A. This Agreement has been approved by the City Council as the City’s governing body and by the City Council as the Successor Agency’s governing board and has been executed by the City’s and Successor Agency’s authorized officials.
 - B. This Agreement has been approved by the Successor Agency’s oversight Board (“Oversight Board”) formed in accordance with CRL Section 34179.
 - C. As provided in CRL Section 34179(h), five (5) business days have elapsed since notice of the Oversight Board’s action approving this Agreement was provided to the State Department of Finance (“DOF”), unless the DOF requests to review the Oversight Board’s action, in which case this paragraph C will be deemed satisfied upon the DOF’s approval of the Oversight Board’s action.

ARTICLE II.

RECITALS

- 2.1 Under the provisions of the CRL, the City Council of the City of Scotts Valley previously established the Redevelopment Agency of the City of Scotts Valley (“RDA”) to carry out the purposes of and exercise the powers granted to community development agencies under the CRL.
- 2.2 On February 1, 2012, the RDA was dissolved by operation of Assembly Bill 1X26 (“AB 26”), and its rights, powers, duties and obligations were transferred to a “successor agency” as defined in CRL Section 34171(j) and Section 34173.

2.3 As provided by AB 26, the City Council took official action election to become the RDA's successor agency ("Agency") under CRL Section 34173.

2.4 On or about June 27, 2012, the provision of Assembly Bill 1484 ("AB 1484") became law. AB 1484 modified the CRL and AB 26 in various ways. As used herein, the term CRL means Health & Safety Code Section 33000, et seq., as modified by AB 26 and AB 1484. Specific terms used and not otherwise defined in this Agreement will have the meanings given to those terms in the CRL.

2.5 CRL Section 34173(h) permit the City, as the RDA's creating authority, to loan or grant funds to the Successor Agency to pay for enforceable obligations, administrative costs and project related expenses.

2.6 Immediately prior to the December 2011 distribution of property tax increment, the Agency's funds reflected a negative cash balance and, following the County Auditor-Controller's subsequent adjustment to the Agency's June 2012 distribution from the RPTTF to reflect the December 2011 property tax distributions, the Agency lacked the funds required to meet the entirety of its obligations arising under the Recognized Obligation Payment Schedule for the period of July 1, 2012 through December 31, 2012.

2.7 In addition, the DOF has disallowed certain enforceable obligations listed on the Agency's Recognized Obligation Payment Schedule for the period of January 1, 2013 through June 30, 2013, therefore, the Agency will lack the funds required to meet the entirety of its obligations for this time period

2.7 The Agency has requested that the City loan it the principal sum of One Million One Hundred Seventy One Thousand Two Hundred Twenty Eight Dollars (\$1,171,228) so that the Agency may pay its enforceable obligations, administrative costs and project related expenses set forth in the ROPS. The City is willing to make the Loan under the authority of CRL Section 34173(h) on the terms set forth in this agreement.

ARTICLE III

TERMS

3.1 Loan Agreement. The City agrees to disburse the Loan to the Agency upon the Agency's request. The Loan will be dispersed to the Agency to be held in its accounts and may be used to pay any of the Agency's enforceable obligations, administrative costs and project related expenses set forth in the ROPS.

3.2 Interest and Repayment Terms. All disbursed and outstanding Loan amounts will accrue interest at the rate earned by the funds deposited by the City into the Local Agency Investment Fund, as it may be adjusted from time to time ("LAIF Rate"), from

the date of the disbursement until fully repaid. The Loan will be paid in accordance with the schedule attached hereto and incorporated herein as Exhibit A.

3.3 Inclusion on Recognized Obligation Payment Schedule.

A. The Agency will identify this Agreement as an enforceable obligation under CRL Section 34173(h) on the ROPS to be submitted by the Agency to the DOF for the period covering the dates of installments on the Loan. The Agency will request an allocation of property taxes from the "Redevelopment Property Tax Trust Fund" (established pursuant to CRL Section 34170.5 and administered by the County Auditor-Controller in accordance with CRL Section 34182 and 34183) ("RPTTF") on the ROPS and each subsequent ROPS covering any fiscal period in which a Loan payment is due as outlined in Exhibit A. If, for any reason whatsoever, the Agency does not receive sufficient allocations of property taxes from the RPTTF so as to fully repay the Loan and accrued interest on or before the due date of the last installment, the Agency will continue to make allocation requests on all subsequent ROPS until the Loan and all accrued interest has been fully repaid. The amount of each allocation request will be equal to the sum of the Agency's repayment obligation arising during the period covered by the ROPS plus the remaining balance (if any) of any repayment due during a prior ROPS period which was not fully paid.

B. The Agency will prepare each ROPS as required by the CRL and submit it to the Oversight Board and such other governmental agencies as the CRL may require. The Agency will take all other actions as required by the CRL or other applicable authority to ensure that the Agency receives an allocation of taxes from RPTTF in the amounts necessary to satisfy the Agency's payment obligations under this Agreement.

3.4 Amendment or Modification. This Agreement and the Agency's obligations under it may be amended or modified only in the following ways:

A. By the mutual written agreement of the City and the Agency, following all notices, hearings and approvals required by the then-applicable provisions of the CRL and other legal authority.

B. As required to conform to future changes in the CRL, other applicable legal authority, or pursuant to an order or judgment of a court of competent jurisdiction.

3.5 No Other Agency Income or Assets Subject to Repayment Obligation. No funds or other assets of the Agency other than property tax allocations from the RPTTF may be used for the repayment of the Agency's obligations under this Agreement.

3.6 Remedies for Breach. If the Agency fails for any reason whatsoever to fulfill its obligations under this Agreement, and regardless of whether the date of the last

installment has passed, the City may, without notice or demand, accelerate all payments to become due under this Agreement and declare the entirety of the unpaid Loan principal and accrued interest immediately due and payable.

IN WITNESS WHEREOF, the Agency and the City have executed this Agreement as of the date first above written.

AGENCY:

SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY OF THE
CITY OF SCOTTS VALLEY, a public
body, corporate and politic

CITY:

CITY OF SCOTTS VALLEY, a California
municipal corporation

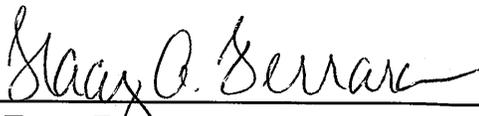
By: 
Stephen H. Ando
Executive Director

By: 
Stephen H. Ando
City Manager

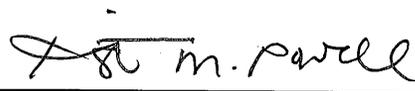
ATTEST:

By: 
Tracy Ferrara
Secretary

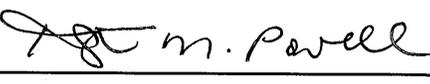
ATTEST:

By: 
Tracy Ferrara
City Clerk

APPROVED AS TO FORM:

By: 
Kirsten M. Powell
Agency Counsel

APPROVED AS TO FORM:

By: 
Kirsten M. Powell
City Attorney