

RESOLUTION NO. OB-01-13

A RESOLUTION APPROVING A PROMISSORY NOTE TO OBLIGATE THE CITY OF EL CAJON ACTING AS SUCCESSOR AGENCY TO THE FORMER EL CAJON REDEVELOPMENT AGENCY TO REPAY A LOAN FROM THE CITY OF EL CAJON TO FUND PROJECT MANAGEMENT AND ADMINSTRATIVE COSTS OF THE SUCCESSOR AGENCY

WHEREAS, the Oversight Board authorized execution of a "Cooperation Agreement For Reimbursement Of Costs And City/Successor Operations Loan" at its April 26, 2012, meeting as a mechanism for the City to allocate and be reimbursed for staff time, administrative and direct project costs relating to the payment of Enforceable Obligations approved by the Oversight Board in each administrative budget and Recognized Obligation Payment Schedule ("ROPS"); and

WHEREAS, on October 11, 2012, the Successor Agency Oversight Board approved the Due Diligence Review report ("DDR") for the Low and Moderate-Income Housing Fund, which estimated \$1,336,712 to be remitted to the County Auditor-Controller for distribution to the Affected Taxing Entities ("ATE'S"), and the report was submitted to the California Department of Finance ("DOF") same day; and

WHEREAS, On November 9, 2012, staff received notice from the DOF denying several amounts outlined in the DDR, including the retention of funds to pay enforceable obligations for the Linda Way/Chambers Senior Residences Project (\$649,568) and the Weiland Development Company Homebuyers Project (\$12,814) because they were not listed on the Recognized Obligations Payment Schedule ("ROPS") submitted August 15, 2012; and

WHEREAS, on November 21, 2012, the Oversight Board approved an amendment to the Fiscal Year 2012-13 Successor Agency budget and the Amended Recognized Obligation Payment Schedule ("ROPS") for the period January 1, 2013 to June 30, 2013, to increase the estimated payment of enforceable obligations for the Weiland Development Company Homebuyers Project and Chambers Senior Residences, L.P. budgets by \$12,814 and \$649,568, respectively to cover actual or anticipated enforceable obligation project expenditures due to faster than anticipated construction schedules; and

WHEREAS, staff participated in a meet and confer session with DOF representatives on December 6, 2012. At that time, DOF determined not to accept the Amended ROPS III, including the increased enforceable obligations for the Weiland Development Company Homebuyers Project and the Linda Way/Chambers Senior Residences Project; DOF suggested that the enforceable obligations for these projects instead be addressed by the Successor Agency requesting a loan from the City, which could then be repaid by placement on a subsequent ROPS. As a result of that meet and confer process, the DOF issued a final determination letter on December 15, 2012, as

amended, stating the amounts to be remitted by the Successor Agency now totals \$2,038,628, which included transmission of funds held by the Successor Housing Agency to pay remaining Linda Way/Chambers Senior Residences Project (\$649,568) and Weiland Development Company Homebuyers Project (\$12,814) enforceable obligations; and

WHEREAS, the Oversight Board of the Successor Agency of the former El Cajon Redevelopment Agency held a regularly scheduled meeting on January 16, 2013, at which time it considered approval of a Promissory Note ("Note") entered into between the City of El Cajon acting as Successor Agency to the former El Cajon Redevelopment Agency and the City of El Cajon, in favor of the City of El Cajon in order to reimburse the City for previously expended enforceable obligation costs incurred for the Weiland Development Company Homebuyers Project and the Linda Way/Chambers Senior Residences Project; and

WHEREAS, the City of El Cajon as Successor Agency requested a determination that said Promissory Note become an enforceable obligation for inclusion on the next Recognized Obligation Payment Schedule for reimbursement;

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER CITY OF EL CAJON REDEVELOPMENT AGENCY, AS FOLLOWS:

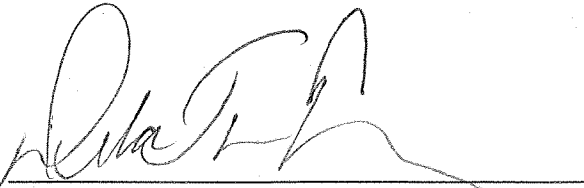
- A. The Oversight Board finds that:
 1. The recitals above are true and correct and have been incorporated herein by reference.
 2. Approval of the amended Promissory Note is exempt from the California Environmental Quality Act (CEQA) under Section 15061 (b) (3) (General Rule) of the CEQA Guidelines because the proposed amendments will not cause a significant adverse physical change to the environment either directly or indirectly.
- B. The Oversight Board hereby acknowledges the making of a loan from the City of El Cajon (the "City"), to the City of El Cajon acting as Successor Agency to the former El Cajon Redevelopment Agency (the "Successor Agency") in the amount of \$662,382, in order to fund project management and administrative costs incurred on behalf of the Successor Agency;
- C. The Oversight Board hereby approves that certain Promissory Note in the principal amount of \$662,382 (the "Note"), with interest thereon at a rate not to exceed the interest earned by the City on its accounts with the Local Agency Investment Agency from time to time, until the entire principal and accrued interest is paid in full, which principal amount represents the amount of a loan to the Successor Agency by the City, under terms and conditions set forth in the Note.

- D. The Oversight Board hereby finds that the Note, in the form and content attached hereto as Exhibit "A" and incorporated herein by this reference, subject to any minor conforming, technical, or clarifying changes approved by the Oversight Board legal counsel, is an enforceable obligation and should be included on the next Recognized Obligation Payment Schedule ("ROPS") for reimbursement; and
- E. The Oversight Board hereby approves that the City Manager of the City, or such person designated by the City Manager, acting in the capacity of chief executive officer for the Successor Agency, execute the Note on behalf of the Successor Agency, and directs that the Secretary of the Oversight Board delivers copies of the executed Note to the County Auditor Controller, the State Department of Finance, the County Administrative Officer, the State Controller's Office, and to post on the Successor Agency website upon approval by the Oversight Board.

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PASSED AND ADOPTED by the Oversight Board of the Successor Agency of the former El Cajon Redevelopment Agency at a meeting held this 16th day of January, 2013, by the following vote to wit:

AYES: ABUSHABAN, CHADWICK, GRIFFIN, GRIFFITHS, RANU, TURNER-EMERSON
NOES: NONE
ABSENT: BUXBAUM



Debra Turner-Emerson, Chairperson

ATTEST:



Jennifer Ficacci, Oversight Board Acting Secretary

PROMISSORY NOTE
(Variable Interest)

\$662,382.00

El Cajon, California
_____, 2013

FOR VALUE RECEIVED, the CITY OF EL CAJON, solely in its capacity as the SUCCESSOR AGENCY TO THE EL CAJON REDEVELOPMENT AGENCY, a public body, corporate and politic ("Borrower") promises to pay to the CITY OF EL CAJON, a charter city and municipal corporation in the state of California ("Lender") at 200 Civic Center Way, El Cajon, California 92020, or at such other address as Lender may direct from time-to-time in writing, the amount of Six Hundred Sixty-two Thousand Three Hundred Eighty-two Dollars (\$662,382.00) (the "Note Amount"). All sums payable hereunder shall be payable in lawful money of the United States of America.

1. Interest Rate. The loan shall bear interest on an adjustable rate, to be equivalent to the rate of interest that the Lender would otherwise have received on its investments with the Local Agency Investment Fund ("LAIF"), from the date of disbursement by Lender until paid.
2. Installments. Borrower promises to pay the Note Amount in one or more installments (each, an "Installment") from Redevelopment Property Tax Trust Fund ("RPTTF") monies received by Borrower from the County Auditor-Controller's office for enforceable obligation project expenditures listed on a Recognized Obligations Payment Schedule ("ROPS") approved by the California Department of Finance ("DOF") in the following manner: On or about June 2, 2013, or such date as the Borrower next receives payment of RPTTF monies based on a DOF-approved ROPS the Borrower shall pay to the Lender the Note Amount, plus interest accrued through the date of this first Installment, with the payment first applied to interest accrued and the balance applied to the payment of principal. Should the first Installment of RPTTF funds be insufficient to pay the entire Note Amount, the unpaid balance shall continue to accrue interest and the balance of the Note Amount, plus interest accrued through the date of payment, shall be due at the second Installment, which shall be on or about January 2, 2014, or such date as the Borrower receives its next payment of RPTTF funds from the County Auditor-Controller's office. The Note Amount, including accrued interest, may be prepaid without penalty.
3. Acceleration. At its option, Lender may determine that Borrower is in default and may, consequently, accelerate the maturity of all installments, making the

unpaid balance of the Note Amount due immediately without presentment for payment or any notice, if Borrower fails to pay an installment when due.

4. Borrower Assignment Prohibited. In no event shall Borrower assign or transfer any portion of this Promissory Note without the prior express written consent of Lender, which consent may be given or withheld at Lender's sole discretion.
5. Non-Waiver. Failure or delay in giving any notice required hereunder shall not constitute a waiver of any default or late payment, nor shall it change the time for any default or payment.
6. Successors Bound. This Promissory Note shall be binding upon the parties hereto and their respective successors and assigns.

Executed the date set forth above.

"BORROWER"

CITY OF EL CAJON, solely in its capacity as the
SUCCESSOR AGENCY TO THE EL CAJON
REDEVELOPMENT AGENCY, a public body, corporate
and politic

By: _____
Douglas Williford, City Manager

ATTEST:

Kathie J. Rutledge, CMC, City Clerk