

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE
SOUTH TAHOE REDEVELOPMENT AGENCY**

STAFF REPORT

REQUEST: APPROVAL AND TRANSMITTAL OF THE DUE DILIGENCE REVIEW FOR THE LOW AND MODERATE INCOME HOUSING FUND IN ACCORDANCE WITH HEALTH AND SAFETY CODE SECTION 34179.5

SUBMITTED BY: Patrick Enright

DATE: October 11, 2012

CONTENTS: Due Diligence Review from El Dorado County Auditor-Controller

Recommendation

That the Oversight Board adopt the attached resolution, (i) approving the Due Diligence Review for the Low and Moderate Income Housing Fund pursuant to Health and Safety Code Section 34179.5, subject to the following adjustments

(i) Page 3 of Due Diligence Review shall be revised as follows:

Total Assets held by Successor Agency as of June 30, 2012:	\$1,485,309.00
Less balances that are restricted by a legal obligation (procedure 8)	\$1,485,309.00

Amount to be remitted to County for disbursement to taxing entities	-0-
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\$426,210 was transmitted to the Housing Authority on January 30, 2012, so the balance held by the Successor Agency on June 30, 2012 was \$1,485,309.00.

\$1,485,309 is a restricted legal obligation to the Aspens Project, a Low and Moderate Income Housing Project pursuant to Resolution 2011-1 of the South Tahoe Redevelopment Agency adopted on February 8, 2011. The Resolution authorized the commitment of a loan of \$2,500,000 of available low and moderate income housing funds in support of the development of a new construction affordable housing project (The Aspens South Lake) at 3521/3541 Pioneer Trail, South Lake Tahoe. (A copy of the Resolution is attached hereto and incorporated by reference).

(ii) authorizing the Successor Agency to retain the assets and funds, if any, identified in subparagraphs (B) to (E), inclusive, of paragraph (5) of subdivision(c) of Section 34179.5, as documented in the Due Diligence Review (the "Restricted Assets"),

and

(iii) ordering the transmittal of the Due Diligence Review to the Department of Finance and the county auditor-controller.

Discussion

Pursuant to Health and Safety Code Section 34179.5, each successor agency must employ a licensed accountant, approved by the county auditor-controller and with experience and expertise in local government accounting, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities.

Each review must determine the net balance of the Low and Moderate Income Housing Fund (the "LMIHF") and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities as of June 30, 2012 (the "Due Diligence Review"). In summary, such amount is determined by determining the total value of assets and cash and cash equivalents in the LMIHF and subtracting the following Restricted Assets: (1) restricted funds, (2) assets that are not cash or cash equivalents, (3) amounts that are legally or contractually dedicated or restricted for the funding of an enforceable obligation, and (4) amounts that are needed to satisfy obligations that will be put on the Recognized Obligation Payment Schedule ("ROPS") for the current fiscal year. Also, the amount determined to be available for allocation to taxing entities includes the value of assets, cash and cash equivalents transferred after January 1, 2011 through June 30, 2012 by the former redevelopment agency or the successor agency to the city, another public agency or private person if an enforceable obligation to make that transfer did not exist. The Due Diligence Review documents the Restricted Assets and provides the respective amounts, sources and purposes for which the Restricted Assets should be retained.

Health and Safety Code Section 34179.6 requires each successor agency to submit the Due Diligence Review to the oversight board for the oversight board's review and approval.

Upon receipt of the Due Diligence Review, the oversight board must convene a public comment session to take place at least five business days before the oversight board holds the approval vote. The oversight board also must consider any opinions offered by the county auditor-controller on the review results submitted by the successor agency.

By October 15, 2012, the oversight board must review, approve, and transmit the Due Diligence Review to the state department of finance ("DOF") and the county auditor-controller. The oversight board may adjust any amount provided in the review to reflect additional information and analysis. The review and approval must occur in public sessions. The oversight board may request from the successor agency any materials it deems necessary to assist in its review and approval of the determination.

Section 34179.6 empowers the oversight board to authorize a successor agency to retain the Restricted Assets.

The DOF must complete its review of the Due Diligence Review no later than November 9, 2012, and must notify the oversight board and the successor agency of its decision to overturn any decision of the oversight board to authorize a successor agency to retain Restricted Assets. The DOF must provide the oversight board and the successor agency an explanation of its basis for overturning or modifying any findings, determinations, or authorizations of the oversight board. The successor agency then has the option to meet and confer with DOF to discuss any modifications.

By December 1, 2012, the county auditor-controller must provide DOF a report specifying the amount submitted by each successor agency from the LMIHF, and specifically noting any successor agency that failed to remit the full required amount.

Section 34179.5 also requires a similar review of all other funds and accounts held by the successor agency to determine unobligated balances available for transfer to taxing entities. The review for all other funds and accounts must be completed by December 15, 2012 and the county auditor-controller has an April 20, 2013 deadline to provide DOF the report specifying the amount submitted by each successor agency from all other funds and accounts, and specifically noting any successor agency that failed to remit the full required amount.

Upon full payment of the amounts determined in the Due Diligence Review and the subsequent review conducted for all other funds and accounts, payment of the "surplus" tax revenues due on July 12, 2012, and any unpaid or underpaid pass through payments owed for fiscal year 2011-12, DOF will issue to the successor agency, within five business days, a finding of completion of the requirements of Section 34179.6.

The El Dorado County-Auditor Controller elected to conduct the Due Diligence Review.

The Oversight Board held the required public comment session regarding the Due Diligence Review on October 2, 2012.

Attachments

Resolution 2011-1 by the South Tahoe Redevelopment Agency Authorizing the Commitment of a Loan of \$2,500,000 of Available Low and Moderate Income Housing Funds in Support of the Development of a New Construction Affordable Housing Project (the Aspens South Lake) at 3521/3541 Pioneer Trail.

Staff Report of February 8, 2011 of the South Tahoe Redevelopment Agency on the Aspens Project

Resolution 2011-14 of City Council of South Lake Tahoe Authorizing Submittal of an Application to the California State Department of Housing and Community Development for Funding under the Home Investment Partnerships Program (HOME) Requesting Up to \$5.1 Million for the Development of a Multi-Family Affordable Housing Project (The Aspens) at 3521-3541 Pioneer Trail and if Selected, the Execution of a Standard Agreement, and any Amendments Thereto; and any Related Documents Necessary to Participate in the Home Investment Partnership Program.

Staff Report of April 5, 2011 Letter to El Dorado County Board of Supervisors Requesting for them to Hold a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing on Behalf of the Aspens Affordable Housing Project.



City of South Lake Tahoe

"making a positive difference now"

October 9, 2012

County of El Dorado
Office of Auditor-Controller
Attn: Joe Harn, Auditor Controller
360 Fair Lane
Placerville, CA 95667

RE: Objection to Estimated Redevelopment Property Tax Trust Fund Allocations and Distributions for Period of June 1, 2012 to December 31, 2012; Objection to Recovery of Auditor-Controller's Costs for Due Diligence Review.

Mr. Harn:

The South Tahoe Redevelopment Successor Agency is in receipt of the Estimated Redevelopment Property Tax Trust Fund Allocations and Distributions for the Period of June 1, 2012 to December 31, 2012 (hereinafter "Estimate"). This Estimate is performed pursuant to Health & Safety Code section 34182(c)(3) which requires the Estimate to be completed by April 1 and October 1 for the upcoming six-month period.¹ This is the first Estimate that Successor Agency has received for the current six months through December 31, 2012.

County-Auditor cannot arbitrarily withdraw \$1.5 million in Property Tax from the Redevelopment Property Tax Trust Fund account to pay a debt of the former redevelopment agency

The Estimate indicated that the Successor Agency will receive \$826,415 in Tax Increment for the six month period following a deduction by the Auditor-Controller of approximately \$1.5 million to pay the back tax increment due on a reassessment of a property in the Project Area. The South Tahoe Redevelopment Successor Agency objects to the deduction by the County-Auditor of the reassessment of approximately \$1.5 million from the Redevelopment Property Tax Trust Fund in violation of Health & Safety Code section 34183.

The Successor Agency objects to the "off the top" deduction of the \$1.5 million because this is a debt of the Successor Agency and is listed on the Recognized Obligation Payment Schedule (ROPS) for the period of January – June 2013. It was not listed on the ROPS for the period of July 1, 2012 to December 31, 2012 because it was not a known obligation with a known payment

¹ AB 26 originally had the dates as May 1 and November 1, but AB 1484 moved the date up 30 days to April 1 and October 1.

due. This \$1.5 million debt occurred following an appeal by a collective group of property owners of a site known as the Chateau parcels. The property owners appealed their assessment of property taxes owed from years 2009, 2010 and 2012. Their appeal was heard by the El Dorado County Board of Equalization, which recently decided to grant the appeal and allow the property owners to reduce the amount of their property tax **debt for back taxes** owed to the County-Auditor.

Without conceding any argument that the Successor Agency may have otherwise, assuming that this approximately \$1.5 million is a debt of the South Tahoe *Successor Agency* because their property taxes had been advanced to the South Tahoe Redevelopment Agency under the Teeter Plan during each of the years in question (2009, 2010 and 2012), it is the South Tahoe *Redevelopment Agency* that the County-Auditor indicates now owed the funds (approximately \$1.5 million) to the County. Since the Redevelopment Agency was dissolved by the State (Under AB x1 26) the *only method of collecting a debt of the former redevelopment agencies* is to follow the law set in place by AB x1 26 and AB 1484, which requires debts of the former redevelopment agencies to be placed on a ROPS for the period in which a payment is due; the ROPS are then approved by the Successor Agency, then the Oversight Board, followed by the County-Auditor, California Department of Finance and State Controller's Office. Only those debts and payments listed on the ROPS and approved by all of the aforementioned agencies can be paid. If an obligation is not listed on the ROPS, it therefore cannot be paid out of Redevelopment Property Tax Trust Fund (hereinafter "RPTTF"). Health & Safety Code section 34177(a)(3) provides:

Commencing on the date the Recognized Obligation Payment Schedule is valid pursuant to subdivision (l), only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency for the funds specified in the Recognized Obligation Payment Schedule.

In a letter dated July 12, 2012 from Kristin Shelton, Program Budget Manager, Department of Finance (hereinafter "DOF") states pursuant to Health & Safety Code section 34177(1)(2)(C), DOF has completed its review of the ROPS for the periods January through June 2012 and July through December 2012 and issued approval letters accordingly. Furthermore, in a letter dated, October 8, 2012, from Steve Szalay, Local Government Consultant, ROPS III for the period from January 1, 2013 to June 30, 2013 has been approved by DOF.

The ROPS III lists the El Dorado County Re-assessment as a recognized obligation in the amount of approximately \$1.5 million. AB 1484 does not contemplate a possibility where the Oversight Board or anyone else could submit an amendment to the ROPS after DOF has approved the ROPS. There are also some practical considerations in the AB 1484, in that Section 34813(c)(3) required the County Auditor-Controller not later than October 1 and April 1 of each year, to submit estimates for the coming RPTTF disbursements to the Successor Agency, the taxing entities and DOF. Therefore, in light of Section 34181(c)(3), October 1, 2012 is the deadline for the submission of amendments to ROPS III.

The approval of the ROPS for the periods through June 30, 2013 has been finalized and any objections or disputes must be addressed in the ROPS IV for the period of July 1 to December 31, 2013. **There can be no changes or amendments to the ROPS for the period of June to June 30, 2013.**

The \$1.5 million is an Enforceable Obligation of the Successor Agency

In fact, neither the Successor Agency nor the Oversight Board of the Successor Agency have yet received any formal written notice of the \$1.5 million obligation owed to the County as a result of the appeal. The Successor Agency received information that was informally provided indicating that the obligation exists due to the appeal of the property owners of the Chateau parcels. The County-Auditor's unilateral action withdrawing the funds from the RPTTF would be in direct violation of law. The County-Auditor cannot place a debt he believes is owed to the County by the former redevelopment agency ahead of other obligations owed by the redevelopment agency just because he has access to the fund account. No other debtor has access to the fund account and if such debtor did, that debtor too could not place the relevant debt ahead of others. AB x 1 26 and AB 1484 provide strict guidelines as to which debt is obligated to be paid in which order, providing assurance that debts owed by the former redevelopment agencies and now the Successor Agencies would be paid in a manner consistent with the priorities of their obligations.

For the funds the County-Auditor has informally indicated are owed to the County-Auditor by the former redevelopment Agency, the County-Auditor must follow the law and submit a request to the Successor Agency for the debt to be paid, provide the necessary documentation to demonstrate the debt occurred and is now owing, ask the Successor Agency to place the total and exact amount of the debt to be placed on subsequent ROPs and follow the County's past-practice to allow for the repayment to occur over time to minimize impact and request approval of the debt by the Successor Agency, Oversight Board, DOF, and SCO. The Successor Agency already placed an estimate of the *anticipated debt* (based on informal conversations with County-Auditor) debt of approximately \$1.5 million on the ROPS, which was approved yesterday (October 8, 2012) and will be paid when sufficient tax increment is available.

Section 34183² provides that the Auditor-Controller may deduct administrative costs allowed under section 34182 and Section 95.3 of the Revenue & Taxation Code. Revenue & Taxation Code 95.3 allows for the Auditor-Controller's property tax administrative costs, **but it does not provide for the reduction of property tax revenues for prior fiscal years. The Auditor-Controller is limited to deducting his administrative costs from the current tax increment to be paid to the Successor Agency, and cannot deduct the prior year's reassessment (which was distributed to the former redevelopment agency and which has now been dissolved, the agency does not exist) from the RPTTF to be transferred to the Successor Agency.** The RPTTF to the Successor Agency shall be approximately \$2.3 million for the period of June 1 to December 31, 2012, and not \$826,415 provided for in the Estimate.

² Unless otherwise stated all "section" references are to the Health & Safety Code, as amended by AB 26 and 1484.

If the County Auditor is Allowed to Deduct the Payment for the Reassessment Prior to the Transfer of the Funds into the RPTTF, the Pass-Through Payments to the Taxing Entities Will Have to Cease and the County will have to Give a Loan to the Successor Agency

If the Auditor-Controller would have been allowed to deduct a debt of the former redevelopment agency of approximately \$1.5 million from the Successor Agency's RPTTF in violation of Health & Safety Code section 34183, insufficient funds would be available for the Successor Agency to meet its approved obligations, resulting in the immediate suspension of pass-through payments to taxing entities and a need for a loan from the County to the Successor Agency.

The Successor Agency is mandated to allocate moneys in the RPTTF in the following order:

1. Debt service payments scheduled to be made for tax allocation bonds
2. Payments to be made on revenue bonds, but only to the extent the revenues pledged for them are insufficient to make the payments and only if the agency's tax increment revenues were also pledged for the repayment of the bonds.
3. Payments scheduled for other debts and obligations listed in the ROPS
4. On June 1 and January 2 to each Successor Agency for the administrative cost allowance.
5. On June 1 and January 2 any moneys remaining in the RPTTF shall be distributed to local agency and school entities in accordance with 34188. (proportionate to its share of property tax revenues)

Shortfall in the RPTTF

If the County-Auditor's unilateral action to withdraw approximately \$1.5 million from the RPTTF was allowed to stand, it would have resulted in an estimated revenue of \$826,415 and a project expense of \$2.3 million on the **approved** ROPS for the period of June to December 2012, the Successor Agency would have a significant insufficiency. The Successor Agency would therefore need to report that insufficiency pursuant to Health & Safety Code section 34183(b) that the total amount available to the Successor Agency for the Redevelopment Property Tax Trust Fund allocations to the Successor Agency Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, **are insufficient to fund the payments required by paragraphs (1) to (3) above.**

Health and Safety Code Section 34183 require that if a shortfall of tax increment exists to meet the obligations approved on the current period ROPS, the County Auditor-Controller shall, after deducting administrative costs that are allowed under Section 348182 and Section 95.3 of the Revenue & Taxation Code, the County-Auditor must cease making payments as follows:

1. Cease any distributions to taxing entities pursuant to 5 above.
2. Deduct amounts available for distribution for administrative costs

3. If still insufficient, then pass though payments become subordinate to debt service payments required for enforceable obligations and cannot be paid.

In accordance with AB x1 26 and AB 1484, the County Treasurer may loan any funds from the County treasury to the RPTTF for the purpose of paying ROPS approved obligations. This loan may be made at the request of the DOF or the Successor Agency to ensure prompt payments of redevelopment agency debts. The loan would become an enforceable obligation under AB x1 26 and AB 1484 and placed on subsequent ROPS for repayment.

The Auditor-Controller **has no authority** to revise the ROPS, to deduct the debt *owed by* the former redevelopment agency prior to the payment of tax increment into the RPTTF to the Successor Agency., The County-Auditor must ensure there are sufficient funds in the RPTTF to allow the Successor Agency to make the necessary payments to the bondholders under Section 34183 as identified on the approved ROPS.

Objection to County-Auditor's Housing Due Diligence Report (DDR)

The Successor Agency received a Housing Due Diligence Report (DDR) from the County-Auditor on October 2, 2012 (the deadline for the report was October 1, 2012).

The County-Auditor had mysteriously objected to the Successor Agency's selection of an independent auditor to perform the DDR. The objection from the County-Auditor came after the auditor was selected and although County-Auditor has indicated he will provide information as to why he objected, no such analysis has been forthcoming.

The County-Auditor performed the DDR and sent it to the Successor Agency on October 2, 2012. The report arrived at 12:17 p.m., during the meeting of the Successor Agency to review and receive the report. The agency accepted the report but objected to the following in the report:

1. County-Auditor refused to acknowledge the transfer of \$426,210 by the South Tahoe Redevelopment Agency from the Housing Fund Balance to the South Tahoe Housing Authority. Section 34171 (d)(1) states that an enforceable action means any of the following:
 - (G) Amounts borrowed from, or payment owing to, the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as the effective date o the acting adding this part; provided , however, that the repayment schedule is approved by the oversight board. **Repayments shall be transferred to the Low and Moderate Income Housing Fund established pursuant to subdivision (d) of Section 34176, as housing assets and shall be used in a manner consistent with the affordable housing requirements of the Community Redevelopment Law.**

The part in bold was added by AB 1484, which was enacted in June 2012. In the fall of 2011, the Oversight Board (OB) approved the payment of the amount borrowed from the Low and Moderate Income Housing Fund as listed on the ROPS for the period of January 2012 to June 2012, and the funds were transferred in February 2012 in accordance with AB x2 16 and before the passage of AB 1484. Therefore, when AB 1484 was adopted and enacted into law it was after the funds had been already transferred to the Housing

Authority and AB 1484 did not include any provision to rescind the action allowed for in AB x1 26.

In addition, Section 33176(e) provides that for purposes of this part, "housing asset" includes the following:

(6)(A) Repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund pursuant to subsection (d) of Section 34171, which shall be used consistent with the affordable housing requirement in the Community Redevelopment Law.

Section (6)(B) discusses that payments are not to begin until 2013-14, but in the case of the South Tahoe Successor Agency, the payment has already been made per OB approval and the ROPS was approved by the DOF. Therefore, the Low and Moderate Housing loan is a "housing asset," and since it has already been paid there will be no need in future years to repay the loan per 33176(e)(6)(B).

2. County-Auditor failed to acknowledge the South Tahoe Redevelopment Agency (STRA)'s commitment of \$2.5 million to the Low-Moderate Income Housing Project known as *The Aspens*. The Successor Agency provided to Mr. Harn resolutions adopted by the STRA committing the funds to the project, which also commits the entire Housing Fund balance of \$1,485,309 million to the Aspens project.

Therefore, in opposition to the County-Auditor's Housing Due Diligence Report there are no funds available for distribution to the taxing entities. The Successor Agency objects to the County-Auditor's Housing Due Diligence Report and strongly objects to the County-Auditor failing to acknowledge the Successor Agency's submission of information and documents contradicting the DDR.

Finally, the Successor Agency also objects to the County-Auditor withdrawing funds from the RPTTF account to cover the cost of his time and other staff members time to prepare the DDR and the agreed upon procedures audit of the redevelopment agency pursuant to Section 34182. The County-Auditor receives compensation for 'administrative costs,' associated with the cost of their staff time to perform administrative work as a result of the dissolution of redevelopment agency in accordance with AB x1 26 and AB 1484. There is no provision under the laws for the County-Auditor to withdraw additional funds (in addition to the administrative fees) for 'staff time.' The County-Auditor's and his staff's time are not actual "costs" borne by the agency that should be deducted.

Sincerely,



Patrick L. Enright
City Attorney
City of South Lake Tahoe

cc: Nancy Kerry, City Manager, City of South Lake Tahoe
Chairperson, South Tahoe Oversight Board
Chris Hill, California State Department of Finance
Steve Buckland, State Department of Finance
Zackery Stacey, State Department of Finance

Attachments: October 8, 2012 letter from DOF approving ROPS for Period January to June 2013

RESOLUTION NO. _____

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR
AGENCY TO THE SOUTH TAHOE REDEVELOPMENT AGENCY
APPROVING THE DUE DILIGENCE REVIEW OF THE LOW AND
MODERATE INCOME HOUSING FUND CONDUCTED PURSUANT TO
HEALTH AND SAFETY CODE SECTION 34179.5 AND TAKING
CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

RECITALS:

A. Pursuant to Health and Safety Code Section 34175(b) and the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.* (53 Cal.4th 231(2011)), on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former South Tahoe Redevelopment Agency transferred to the control of the Successor Agency to the South Tahoe Redevelopment Agency (the "Successor Agency") by operation of law.

B. Health and Safety Code Section 34179.5 requires the Successor Agency to employ a licensed accountant, approved by the county auditor-controller, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities or in the alternative the County-Auditor Controller may elect to perform the due diligence review.

C. Health and Safety Code Section 34179.6 requires the Successor Agency to submit the results of the review conducted pursuant to Section 34179.5 for the Low and Moderate Income Housing Fund (the "LMIHF") and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities (the "Due Diligence Review") to the Successor Agency's Oversight Board (the "Oversight Board") for the Oversight Board's review and approval.

D. Pursuant to Health and Safety Code Sections 34179.6 and 34180(j), the Successor Agency submitted to the Oversight Board, the county administrative officer, the county auditor-controller, the State Controller and the Department of Finance ("DOF") the Due Diligence Review and a copy of the Recognized Obligation Payment Schedule ("ROPS").

E. Pursuant to Health and Safety Code Section 34179.6(b), upon receipt of the Due Diligence Review, and at least five business days before the Oversight Board considers the approval of the Due Diligence Review, the Oversight Board must hold a public comment session (the "Public Comment Session") at which time the public has an opportunity to hear and be heard on the results of the Due Diligence Review and at which time the Oversight Board considers the opinions, if any, offered by the county auditor-controller on the results of the Due Diligence Review.

F. On October 2, 2012, the Oversight Board held the Public Comment Session pursuant to Health and Safety Code Section 34179.6 (b).

G. Pursuant to Health and Safety Code Section 34179.6(c), the Oversight Board must review, approve and transmit to DOF and the county auditor-controller, the determination of the amount of cash and cash equivalents in the LMIHF available for disbursement to taxing entities as determined according to the method provided in Section 34179.5. Section 34179.6 (c) provides that the Oversight Board may adjust any amount provided in the Due Diligence Review to reflect additional information and analysis.

H. Section 34179.6(c) empowers the Oversight Board to authorize the Successor Agency to retain assets or funds identified in subparagraphs (B) to (E), inclusive, of paragraph (5) of subdivision(c) of Section 34179.5. If the Oversight Board makes this authorization, the Oversight Board must identify to DOF the amount of funds authorized for retention, the source of those funds, and the purposes for which those funds are being retained. The determination and authorization to retain funds and assets shall be subject to the review and approval of DOF pursuant to Health and Safety Code Section 34179.6(d).

I. Pursuant to Health and Safety Code Section 34179.6(c), the Oversight Board desires to approve the Due Diligence Review and to authorize the Successor Agency to retain the assets and funds, if any, identified pursuant to subparagraphs (B) to (E), inclusive, of paragraph (5) of subdivision(c) of Section 34179.5, as documented in the Due Diligence Review.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE SOUTH TAHOE REDEVELOPMENT AGENCY 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. This Resolution is adopted pursuant to Health and Safety Code Section 34179.6(c).

Section 3. The Oversight Board hereby approves the Due Diligence Review subject to the following adjustments:

Page 3 of Due Diligence Review shall be revised as follows:

Total Assets held by Successor Agency as of June 30, 2012:	\$1,485,309.00
Less balances that are restricted by a legal obligation (procedure 8)	\$1,485,309.00

Amount to be remitted to County for disbursement to taxing entities -0-

\$426,210 was transmitted to the Housing Authority on January 30, 2012. The balance held by the Successor Agency on June 30, 2012 was \$1,485,309.00.

\$1,485,309 is restricted as a legal obligation to the Aspens Project, a Low and Moderate Income Housing Project pursuant to Resolution 2011-1 of the South Tahoe

Redevelopment Agency adopted on February 8, 2011. The Resolution authorized the commitment of a loan of \$2,500,000 of available low and moderate income housing funds in support of the development of a new construction affordable housing project (The Aspens South Lake) at 3521/3541 Pioneer Trail, South Lake Tahoe. (A copy of the Resolution is attached hereto and incorporated by reference).

Section 4. For the purposes of providing for the transfer of housing functions and assets pursuant to Health and Safety Code Sections 34176 and 34181(c), the Oversight Board hereby authorizes the Successor Agency to retain the assets and funds, if any, identified in subparagraphs (B) to (E), inclusive, of paragraph (5) of subdivision(c) of Section 34179.5, as documented in the Due Diligence Review, which provides the amount of funds authorized for retention, the source of those funds, and the purposes for which those funds are being retained.

Section 5. The staff of the Successor Agency is hereby directed to transmit to DOF and the county auditor-controller written notice and information regarding the actions taken by this Resolution and specifically the determination of the amount of cash and cash equivalents in the LMIHF that are available for disbursement to taxing entities as determined according to the method provided in Health and Safety Code Section 34179.5. Such notice to DOF shall be provided by electronic means and in a manner of DOF's choosing.

Section 6. The staff and the Board of the Successor Agency are hereby authorized and directed, jointly and severally, to execute and record such documents and instruments and to do any and all other things which they may deem necessary or advisable to effectuate this Resolution and any such actions previously taken are hereby ratified.

PASSED AND ADOPTED this 11th day of October, 2012.

Chair

ATTEST:

Secretary

Encl: Resolution 2011-1 – Adopted by South Tahoe Redevelopment Agency on the Aspens South Lake Project

CITY OF SOUTH LAKE TAHOE
SOUTH TAHOE REDEVELOPMENT AGENCY

RESOLUTION NO. 2011- 1

A RESOLUTION AUTHORIZING THE COMMITMENT OF A LOAN \$2,500,000 OF AVAILABLE LOW AND MODERATE INCOME HOUSING FUNDS IN SUPPORT OF THE DEVELOPMENT OF A NEW CONSTRUCTION AFFORDABLE HOUSING PROJECT (THE ASPENS SOUTH LAKE) AT 3521/3541 PIONEER TRAIL

WHEREAS, results from a December 2010 survey of South Lake Tahoe residents indicate 80% of the community desires more quality affordable housing; and

WHEREAS, according to the 2000 Census Data and documented in the City's state-certified January 26, 2009 Housing Element, approximately twelve percent (12%) of renters living in the City of South Lake Tahoe are living in severely overcrowded conditions of more than 1.5 persons per room; and

WHEREAS, according to the City's state-certified January 26, 2009 Housing Element, approximately eight percent (8%) of the population of the City of South Lake Tahoe are living in severely overcrowded conditions of more than 1.5 persons per room; and

WHEREAS, according to the City's state-certified January 26, 2009 Housing Element, 85% of the City's housing stock was built before 1980 and between 56.2% of households pay greater than 30% of their income for housing costs and 32.8% of renters spend greater than 50% of their income on housing costs;

WHEREAS, Pacific West (PacWest) Communities, Inc. (the Developer) is a well-established real estate and financing firm specializing in the development and ownership of affordable workforce housing throughout the western United States, including 50 projects in California, specializing in the use of the affordable housing tax credits, federal, state, and local resources including HOME Funds, Community Development Block Grants (CDBG) to successfully produce projects throughout the west coast; and

WHEREAS, the Key Principal for the project developer, Caleb Roope, has managed the development and construction of over 80 projects including many in California; and

WHEREAS, PacWest requests a loan in the amount of \$2,500,000 in Redevelopment Agency low- and moderating-income housing funds payable to the developer in installments of \$625,000 per year for four years with a Return on Investment (ROI) of three percent (3%), payable out of project proceeds beginning in year twelve of the project; and

WHEREAS, the Redevelopment Agency commits available low and moderate income housing funds in the sum of \$2,500,000 to support a new 48-unit affordable housing project to be located at 3521/3541 Pioneer Avenue (APN: 027-323-10 and 027-323-16), which is in reasonable proximity to the Redevelopment Project Area ("Project"); and

WHEREAS, "available low and moderate income housing funds" means that the Agency determines that there are sufficient funds in the low income and moderate housing fund account and the State of California or any other federal or state agency has not taken

any more funds than have been stolen by Assembly Bill X4-26 to be transferred to school districts (the Supplemental Revenue Augmentation Fund); and

WHEREAS, PacWest will pursue funding allocations for a State HOME grant in an amount up to \$5.1 million dollars to support the proposed affordable housing project and the commitment of local RDA funds will be used as match and/or leverage for that grant applications; and

WHEREAS, Section 33334.2(f) of the State of California Health and Safety Code declares that low- and moderate-income housing funds may be used, in whole or part, by an agency to meet the replacement housing provision of Section 33413; and

WHEREAS, Section 33334.2(g) of the State of California Health and Safety Code declares that the agency may use low- and moderate-income housing funds outside the project area, but only upon a resolution of the agency and the legislative body that such will be of benefit to the project (This Resolution shall serve this purpose for the South Tahoe Redevelopment Agency, in conjunction with Resolution 2009-6); and

WHEREAS, Section 33334.2(g) of the State of California Health and Safety Code also states "That the Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always a benefit to a project."

NOW THEREFORE, BE IT RESOLVED that

1. The above recitals are true and correct.
2. The South Tahoe Redevelopment Agency does hereby authorize a loan to Pacific West Communities, Inc. (Developer) or its limited partnership affiliate following successful award of HOME grant in the amount of \$625,000 per year for four years (for a total of \$2,500,000) beginning October 15th of the year construction commences from low and moderate income housing funds as determined available in support of the development of a new construction affordable housing project (The Aspens) at 3521/3541 Pioneer Trail (APN: 027-323-10 and 027-323-16) for the purpose of providing the redevelopment agency with replacement housing to meet the housing production goals for low- and moderate-income persons.
3. The interest on the loan shall be 3 percent per annum and commence accruing upon first disbursement of the funds to Developer.
4. The first installment of \$625,000 shall not be disbursed to the Developer until the financing has been acquired to complete the Project to the satisfaction of Agency and City of South Lake Tahoe and Developer has commenced construction; Commenced construction shall mean in addition to obtaining all permits, the Developer has begun physical on-site construction; This refers to placement, assembly, or installation of materials, equipment, or facilities which will make up part of the affordable housing units.; The activities must be site specific for the Aspens. Site clearing and excavation will not satisfy the commence construction definition.

5. The second installment of \$625,000 shall not be disbursed to the Developer until the Project is completed. Completion shall mean the issuance of a certificate of occupancy for the units.
6. The loan to the Developer will be repaid to the Agency beginning in year twelve following construction completion and be payable from residual receipts of which the City's loan payment will be fifty percent (50%) of receipts.
7. The South Tahoe Redevelopment Agency hereby finds and declares that because the \$2,500,000 of low- and moderate-income housing funds will be used in support of a new affordable housing project to create replacement housing for the South Tahoe Redevelopment Agency, that the use of low- and moderate-income housing funds outside the project area is a benefit to the project pursuant to Section 33334.2(g) of the State of California Health and Safety Code.
8. The Agency Board finds, pursuant to Health and Safety Code section 33334.3(j) that the Developer has made good faith efforts to obtain private or commercial financing for purposes of acquiring and constructing the Project, but is unable to obtain sufficient financing to maintain the level of affordability and quality of units contemplated herein and is in need of additional funding.
9. The Agency Board finds that pursuant to Labor Code section 1720(c)(6)(E) that the funds will be used to provide a below-market rate loan to create housing in which more than 40% of the units are available to families earning at or below 80% of Area Median Income.

BE IT FURTHER RESOLVED the City Manager and his/her designee are hereby authorized and directed to execute the Loan Agreement, the Regulatory Agreement, and such other documentation reasonably necessary to document the loan between the Agency and Pacific West (PacWest) Communities, Inc. or its limited partnership affiliate as described in the accompanying staff report, all in a form approved by the Agency Legal Counsel.

PASSED AND ADOPTED by the South Tahoe Redevelopment Agency at a regular meeting on February 8, 2011 by the following vote:

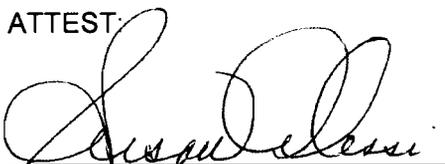
AYES: Agency Member(s): COLE, FORTIER, DAVIS, GREGO & SWANSON

NOES: Agency Member(s): _____

ABSTAIN: Agency Member(s): _____

ABSENT: Agency Member(s): _____

ATTEST:



Susan Alessi, Agency Secretary



Hal Cole, Chair



City of South Lake Tahoe

"making a positive difference now"

STAFF REPORT **City Council / South Tahoe Redevelopment Agency** **Meeting of February 8, 2011**

TO: Anthony O'Rourke
City Manager/Executive Director South Tahoe Redevelopment Agency

FR: Nancy Kerry, Redevelopment & Housing Manager

Re: **Adopt City Council Resolution Authorizing the Submittal of a State HOME Grant Application Requesting Up to \$5.1 Million For The Development of a Multi-family Affordable Housing Project (The Aspens at South Lake) At 3521/3541 Pioneer Trail And Adopt Agency Board Resolution To Commit \$2.5 Million Over 4 Years Of Low- And Moderate-Income Housing Funds To The Project**

RECOMMENDATION:

Adopt City Council Resolution, Adopt South Tahoe Redevelopment Agency Resolution, and Approve and Authorize Execution of Agreement and Related Documents or Amendments If Selected For Funding.

BACKGROUND:

On August 4, 2009, the City Council and South Tahoe Redevelopment Agency Board authorized submittal of a grant application to the California Department of Housing and Community Development Home Investment Partnerships Program (HOME) program for *The Aspens Affordable Housing Project (City Council Resolution 2009-57)*.

Also on August 4, 2009, the City Council approved a loan to the developer of the project in the amount of \$1.5 million from Redevelopment Housing Set-Aside funds (*STRA Resolution 2009-6*). State Redevelopment Law requires 20% of all Tax Increment collected by "Set Aside" for housing, those funds are collectively referred to as "Housing Set-Aside Funds."

In 2009, the HOME grant application was submitted and the project was subsequently awarded \$2.1 million in state housing funds.

Competitive Investment Market

As City Council is aware, the financial investment markets have tightened significantly during the recession. Affordable housing projects rely on "tax credit" financial investors. Tax credit investors are (typically corporations) looking for a tax-write off and find one by contributing equity to low-income housing. The recession substantially reduced the need for tax write offs resulting in a fewer investors and a very competitive market. In order to make an affordable housing project feasible, they need layers of financial investors from state public funds, to redevelopment Housing Set Aside funds, municipal investments, developer deferrals, loans as well as Tax Credit investors.

In 2010, the developer for The Aspens (Pacific West Communities/PacWest) submitted the project for Tax Credit financing and was not selected due to the competitiveness of other applications.

Note: Most Affordable Housing Projects get "equal" scores in Tax Credit financing application reviews. The decision on which project gets funding typically comes down to a tiebreaker factor, which is generally the percentage of public funds invested into the project. The percentage of public funds for The Aspens project was lower than other projects and thus, not competitive in its 2010 Tax Credit Application.

The tightened financial markets resulted in a large percentage of multi-family affordable housing projects unable to obtain tax credit investors and were essentially stalled. In response to the issue, the State Housing and Community Development Department (HCD) took the unusual step a few weeks ago of issuing a supplemental Notice of Funding Available (NOFA) for projects that were already awarded grant housing grants but were unable to obtain sufficient financing to complete the deal, which includes *The Aspens at South Lake*.

ISSUE AND DISCUSSION:

This item is before the City Council to approve submittal of the supplemental grant application to the California Housing and Community Development Department (HCD) in response to their January 2011 HOME Investment Partnership (HOME) Program Supplemental NOFA. The application will request up to \$5.1 million in funding (\$2.1 was already awarded funding, the application is basically asking for an additional \$3 million).

This item is also before the City Council and South Tahoe Redevelopment Agency Board to approve an additional \$1 million loan from RDA housing set-aside funds (the City Council previously approved \$1.5 million), for a total loan of \$2.5 million from housing set aside.

Project Requires Additional Funding

Over the past several months, City staff and the developer (PacWest) have been exploring various financing options when it became clear the project would not be competitive for tax credit financing as proposed. Some of the options considered were the following:

- South Tahoe Public Utility District (District) requires approximately \$1M in project impact fees. The developer and the City's Redevelopment and Housing Director met with District executives over the course of several months to discuss options deferring (as a loan) some or all of the impact fees; this option has also been discussed with their Board. At the time of writing this report, an agreement has not been reached to defer some or all of the impact fees.
- The State of California heard from housing developers of the unavailability of tax credit financing if the projects did not receive additional public funding. The state took the unusual step of releasing an additional \$35 million in supplemental HOME

funding available only to projects "stuck" in the financing crunch and only those projects who had previously been approved for grant funding.

- Given the success of the supplemental application, the developer will restructure the project to apply for 4% tax credit financing rather than a 9% tax credit project. A 4% tax credit project, as proposed, receives enough points in the review process to be non-competitive and will ensure the project will be completed. The developer's strategy is to utilize a combination of additional state HOME funds (\$5.1 million), state tax credits, and an additional \$1,000,000 of local public funds. The \$1,000,000 was originally proposed from the developer to be split between the South Tahoe Public Utility District and RDA housing set-aside funds. However, given the District's inability to defer the fees, the financing gap will need to come from the Set Aside funds to move forward.
- City staff recommend the loan of an additional \$1 million in Housing Set-Aside funds to get the project in the ground in 2011 (loan would total \$2.5 million). This approach will put local contractors to work in 2011 (Developer has agreed to hire local contractors), will provide *quality* affordable housing in 2012 and bring millions in public funds invested into the local community.
- In the event of an unsuccessful supplemental HOME application, The Aspens will continue to move forward with 9% tax credit financing with a greatly increased tiebreaker factor, increasing the chance of achieving an award in 2011.

Relevance to Strategic Priorities and Community Survey

The City Council recently adopted five Strategic Priorities founded on results from the December 2010 community survey. In the survey, 80% of respondents indicated they believe the need for *quality* affordable housing was important, which is supported by the City's Housing Element (state certified January 26, 2009), which indicated that 85% of the housing stock was built before 1985 and approximately eight percent (8%) of the population live in severely overcrowded conditions (12% of renters). The Aspens project would be a new housing project constructed in an Alpine motif and located immediately adjacent to multi-family housing that needs improvement and would likely help to encourage the owners of those developments to improve their properties to stay competitive.

FINANCIAL AND/OR POLICY IMPLICATIONS:

The Developer is requesting a loan from the Redevelopment Low-Moderate Housing Funds to complete the financing portfolio. The requested loan is \$2.5 million dollars disbursed to the developer in increments of \$625,000 over four years. The first loan disbursements would be made October 1 of the year construction begins and each October 1 thereafter provided the developer met construction performance requirements (yet to be determined). The interest (3%) would begin to accrue immediately upon release of the first \$625,000 loan to the developer. Repayment would begin in year twelve of the project (year one is the year the project breaks ground).

Performance Milestones

By providing financial support in the form of a loan, the City has an opportunity to include performance milestones before any loan fund disbursement. The City, in effect then, does not financially support the project until performance milestones are met. The City Council will approve the developer agreement, which would come before council after financing is in place.

Housing Set Aside Funds

As noted earlier, Redevelopment Housing Set Aside funds can only be utilized for projects that benefit low to moderate income housing ("low-mod housing") (CA Health and Safety Code, Section 33334). There is sufficient funding in the Low-Mod Housing funds to cover the loan to the developer in FY2012 through FY2016, with a remaining estimated balance (in FY 2015/16) of approximately \$1 million dollars. There are no other housing projects currently proposed requesting housing set-aside funds.

SIGNATURES:

By:


Nancy Kerry
Redevelopment & Housing Manager

Concurrence:


Eugene M. Palazzo
Director, Redevelopment & Housing

Reviewed and Approved by:


Anthony O'Rourke
City Manager / Executive Director STRA

Attachments:

1. City Council Resolution
2. STRA Resolution

CITY OF SOUTH LAKE TAHOE

CITY COUNCIL

RESOLUTION NO. 2011 -

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) REQUESTING UP TO \$5.1 MILLION FOR THE DEVELOPMENT OF A MULTIFAMILY AFFORDABLE HOUSING PROJECT (THE ASPENS) AT 3521/3541 PIONEER TRAIL AND IF SELECTED, THE EXECUTION OF A STANDARD AGREEMENT, AND ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE HOME INVESTMENT PARTNERSHIPS PROGRAM;

WHEREAS, the California Department of Housing and Community Development ("HCD") is authorized to allocate HOME Investment Partnerships Program ("HOME") funds made available from the U.S. Department of Housing and Urban Development ("HUD"). HOME funds are to be used for the purposes set forth in Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, in federal implementing regulations set forth in Title 24 of the Code of Federal Regulations, part 92, and Title 25 of the California Code of Regulations commencing with section 8200; and

WHEREAS, on January 20, 2011, the Department issued a 2011 Notice of Funding Availability announcing the availability of funds under the HOME program (the "NOFA"); and

WHEREAS, in response to the 2011 NOFA, City of South Lake Tahoe, a political subdivision of the State of California (the "Applicant"), wishes to apply to the Department for, and receive an allocation of, HOME funds.

WHEREAS, results from a December 2010 survey of South Lake Tahoe residents indicate 80% of the community desires more quality affordable housing; and

WHEREAS, the City's state-certified January 26, 2009 Housing Element indicated approximately twelve percent (12%) of renters living in the City of South Lake Tahoe are living in severely overcrowded conditions of more than 1.5 persons per room; and

WHEREAS, as documented in the City's state-certified January 26, 2009 Housing Element, approximately eight percent of the population of the City of South Lake Tahoe are living in severely overcrowded conditions of more than 1.5 persons per room; and

WHEREAS, as documented the City's state-certified January 26, 2009 Housing Element 85% of the City's housing stock was built before 1980 and between 56.2% of households pay greater than 30% of their income for housing costs and 32.8% of renters spend greater than 50% of their income on housing costs;

WHEREAS, Pacific West (PacWest) Communities, Inc. (the developer) is a well-established real estate and financing firm specializing in the development and ownership of affordable workforce housing throughout the western United States, including 50 in California, specializing in the use of the affordable housing tax credits, federal, state, and local resources including HOME Funds, Community Development Block Grants (CDBG) to successfully produce projects throughout the west coast; and

WHEREAS, the Key Principal for the project developer, Caleb Roope, has managed the development and construction of over 80 projects including many in California; and

WHEREAS, the South Tahoe Redevelopment Agency Board has authorized the use of \$2,500,000 in Redevelopment Agency low- and moderating-income housing funds as a loan to PacWest with a Return on Investment (ROI) to the City of three percent (3%), payable out of project proceeds beginning in or around year twelve of the project; and

WHEREAS, the housing units produced will be outside the Redevelopment Project Area; and

WHEREAS, Section 33334.2(g) of the State of California Health and Safety Code declares that a Redevelopment Agency may use low- and moderate-income housing funds outside the project area, but only upon a resolution of the Agency and City Council that such will be of benefit to the project (This Resolution shall serve this purpose for the City Council); and

WHEREAS, Section 33334.2(g) of the State of California Health and Safety Code also states, "That the Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always a benefit to a project."

IT IS NOW THEREFORE RESOLVED THAT:

IT IS NOW THEREFORE RESOLVED THAT:

1. The above recitals are true and correct.
2. In response to the 2011 NOFA, the Applicant shall submit an application to the Department to participate in the HOME program and for an allocation of funds not to exceed Five Million One Hundred Thousand Dollars (\$5,100,000.00) for the following activities and/or programs.
3. A 48-unit Rental New Construction affordable housing project for very low and low-income renter families to be located at 3521/3541 Pioneer Avenue (APN: 027-323-10 and 027-323-16) in the City of South Lake Tahoe, California.
4. If the application for funding is approved, then the Applicant hereby agrees to use the HOME funds for eligible activities in the manner presented in its application as approved by the Department in accordance with the

statutes and regulations cited above. The Applicant may also execute a standard agreement, any amendments thereto, and any and all other documents or instruments necessary or required by the Department or HUD for participation in the HOME program (collectively, the required documents).

5. The City finds and declares that since the \$2,500,000 of low- and moderate-income housing funds will be used for the proposed rental, new construction, affordable housing project, in conjunction with HOME funds if awarded, to create replacement housing for the South Tahoe Redevelopment Agency, that the use of low- and moderate-income housing funds outside the Project Area is of benefit to the Project pursuant to Section 33334.2(g) of the State of California Health and Safety Code.

BE IT FURTHER RESOLVED that the Council finds, pursuant to Health and Safety Code section 33334.3(j) that the Developer has made good faith efforts to obtain private or commercial financing for purposes of acquiring and constructing the Project, but is unable to obtain such financing to maintain the level of affordability and quality of units contemplated herein; and

BE IT FURTHER RESOVLED that the Council finds that pursuant to Labor Code section 1720(c)(6)(E) that the funds will be used to provide a below-market rate loan to create housing in which more than 40% of the units are available to families earning at or below 80% of Area Median Income; and

BE IT FURTHER RESOLVED the City Manager The applicant authorizes the City Manager or his/her designee(s) to execute, in the name of the applicant, the Loan Agreement, the Regulatory Agreement, and such other documentation reasonably necessary to document the loan between the Agency and Pacific West (PacWest) Communities, Inc. or its limited partnership affiliate as described in the accompanying staff report, all in a form approved by the Agency Legal Counsel.

PASSED AND ADOPTED by the City Council of the City of South Lake Tahoe at a regular meeting on February 8, 2011 by the following vote:

AYES: Council Member(s) _____
NOES: Council Member(s) _____
ABSENT: Council Member(s) _____
ABSTAIN: Council Member(s) _____

ATTEST:

Susan Alessi, City Clerk

Hal Cal, Mayor

CITY OF SOUTH LAKE TAHOE

SOUTH TAHOE REDEVELOPMENT AGENCY

RESOLUTION NO. 2011-_____

A RESOLUTION AUTHORIZING THE COMMITMENT OF A LOAN \$2,500,000 OF AVAILABLE LOW AND MODERATE INCOME HOUSING FUNDS IN SUPPORT OF THE DEVELOPMENT OF A NEW CONSTRUCTION AFFORDABLE HOUSING PROJECT (THE ASPENS SOUTH LAKE) AT 3521/3541 PIONEER TRAIL

WHEREAS, results from a December 2010 survey of South Lake Tahoe residents indicate 80% of the community desires more quality affordable housing; and

WHEREAS, according to the 2000 Census Data and documented in the City's state-certified January 26, 2009 Housing Element, approximately twelve percent (12%) of renters living in the City of South Lake Tahoe are living in severely overcrowded conditions of more than 1.5 persons per room; and

WHEREAS, according to the City's state-certified January 26, 2009 Housing Element, approximately eight percent (8%) of the population of the City of South Lake Tahoe are living in severely overcrowded conditions of more than 1.5 persons per room; and

WHEREAS, according to the City's state-certified January 26, 2009 Housing Element, 85% of the City's housing stock was built before 1980 and between 56.2% of households pay greater than 30% of their income for housing costs and 32.8% of renters spend greater than 50% of their income on housing costs;

WHEREAS, Pacific West (PacWest) Communities, Inc. (the Developer) is a well-established real estate and financing firm specializing in the development and ownership of affordable workforce housing throughout the western United States, including 50 projects in California, specializing in the use of the affordable housing tax credits, federal, state, and local resources including HOME Funds, Community Development Block Grants (CDBG) to successfully produce projects throughout the west coast; and

WHEREAS, the Key Principal for the project developer, Caleb Roope, has managed the development and construction of over 80 projects including many in California; and

WHEREAS, PacWest requests a loan in the amount of \$2,500,000 in Redevelopment Agency low- and moderating-income housing funds payable to the developer in installments of \$625,000 per year for four years with a Return on Investment (ROI) of three percent (3%), payable out of project proceeds beginning in year twelve of the project; and

WHEREAS, the Redevelopment Agency commits available low and moderate income housing funds in the sum of \$2,500,000 to support a new 48-unit affordable housing project to be located at 3521/3541 Pioneer Avenue (APN: 027-323-10 and 027-323-16), which is in reasonable proximity to the Redevelopment Project Area ("Project"); and

WHEREAS, "available low and moderate income housing funds" means that the Agency determines that there are sufficient funds in the low income and moderate housing fund account and the State of California or any other federal or state agency has not taken

any more funds than have been stolen by Assembly Bill X4-26 to be transferred to school districts (the Supplemental Revenue Augmentation Fund); and

WHEREAS, PacWest will pursue funding allocations for a State HOME grant in an amount up to \$5.1 million dollars to support the proposed affordable housing project and the commitment of local RDA funds will be used as match and/or leverage for that grant applications; and

WHEREAS, Section 33334.2(f) of the State of California Health and Safety Code declares that low- and moderate-income housing funds may be used, in whole or part, by an agency to meet the replacement housing provision of Section 33413; and

WHEREAS, Section 33334.2(g) of the State of California Health and Safety Code declares that the agency may use low- and moderate-income housing funds outside the project area, but only upon a resolution of the agency and the legislative body that such will be of benefit to the project (This Resolution shall serve this purpose for the South Tahoe Redevelopment Agency, in conjunction with Resolution 2009-6); and

WHEREAS, Section 33334.2(g) of the State of California Health and Safety Code also states "That the Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always a benefit to a project."

NOW THEREFORE, BE IT RESOLVED that

1. The above recitals are true and correct.
2. The South Tahoe Redevelopment Agency does hereby authorize a loan to Pacific West Communities, Inc. (Developer) or its limited partnership affiliate following successful award of HOME grant in the amount of \$625,000 per year for four years (for a total of \$2,500,000) beginning October 15th of the year construction commences from low and moderate income housing funds as determined available in support of the development of a new construction affordable housing project (The Aspends) at 3521/3541 Pioneer Trail (APN: 027-323-10 and 027-323-16) for the purpose of providing the redevelopment agency with replacement housing to meet the housing production goals for low- and moderate-income persons.
3. The interest on the loan shall be 3 percent per annum and commence accruing upon first disbursement of the funds to Developer.
4. The first installment of \$625,000 shall not be disbursed to the Developer until the financing has been acquired to complete the Project to the satisfaction of Agency and City of South Lake Tahoe and Developer has commenced construction; Commenced construction shall mean in addition to obtaining all permits, the Developer has begun physical on-site construction; This refers to placement, assembly, or installation of materials, equipment, or facilities which will make up part of the affordable housing units.; The activities must be site specific for the Aspends. Site clearing and excavation will not satisfy the commence construction definition.

5. The second installment of \$625,000 shall not be disbursed to the Developer until the Project is completed. Completion shall mean the issuance of a certificate of occupancy for the units.
6. The loan to the Developer will be repaid to the Agency beginning in year twelve following construction completion and be payable from residual receipts of which the City's loan payment will be fifty percent (50%) of receipts.
7. The South Tahoe Redevelopment Agency hereby finds and declares that because the \$2,500,000 of low- and moderate-income housing funds will be used in support of a new affordable housing project to create replacement housing for the South Tahoe Redevelopment Agency, that the use of low- and moderate-income housing funds outside the project area is a benefit to the project pursuant to Section 33334.2(g) of the State of California Health and Safety Code.
8. The Agency Board finds, pursuant to Health and Safety Code section 33334.3(j) that the Developer has made good faith efforts to obtain private or commercial financing for purposes of acquiring and constructing the Project, but is unable to obtain sufficient financing to maintain the level of affordability and quality of units contemplated herein and is in need of additional funding.
9. The Agency Board finds that pursuant to Labor Code section 1720(c)(6)(E) that the funds will be used to provide a below-market rate loan to create housing in which more than 40% of the units are available to families earning at or below 80% of Area Median Income.

BE IT FURTHER RESOLVED the City Manager and his/her designee are hereby authorized and directed to execute the Loan Agreement, the Regulatory Agreement, and such other documentation reasonably necessary to document the loan between the Agency and Pacific West (PacWest) Communities, Inc. or its limited partnership affiliate as described in the accompanying staff report, all in a form approved by the Agency Legal Counsel.

PASSED AND ADOPTED by the South Tahoe Redevelopment Agency at a regular meeting on February 8, 2011 by the following vote:

AYES: Agency Member(s): _____

NOES: Agency Member(s): _____

ABSTAIN: Agency Member(s): _____

ABSENT: Agency Member(s): _____

ATTEST:

Susan Alessi, Agency Secretary

Hal Cole, Chair



City of South Lake Tahoe

"making a positive difference now"

STAFF REPORT **CITY COUNCIL MEETING OF APRIL 5, 2011**

TO: Anthony O'Rourke
City Manager/Executive Director South Tahoe Redevelopment Agency

FR: Nancy Kerry, Public Affairs and Communications Manager

RE: Letter to the El Dorado County Board of Supervisors Requesting for them to Hold a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing on Behalf of the Aspens Affordable Housing Project

RECOMMENDATION:

Approve Submittal of Letter to the El Dorado County Board of Supervisors

ISSUE AND DISCUSSION:

This issue is before the City Council to approve submission of a letter to the County Board of Supervisors requesting they provide an opportunity for California Statewide Communities Development Authority (CSCSA) to hold a public hearing during the County's April 12, 2011 Board of Supervisor meeting to provide the public an opportunity to be informed of the intent of CSCDA to issue revenue bonds for The Aspens at South Lake Tahoe housing project. The IRS requires the CSCDA to hold a *Tax, Equity and Fiscal Responsibility Act ("TEFRA")* hearing before the bonds are issued. The revenue bonds are not City or County bonds, they are bonds issued by the company as a funding partner in the project. The letter to the County is attached along with a copy of the County's Legislative Text (Staff Report) explaining the action requested and Resolution and a copy of the letter from CSCDA (aka California Communities) requesting the hearing.

STRATEGIC PLAN or 5-year FINANCIAL PLAN RELEVANCE:

Strategic Priority: Economic Development

"Create innovative public-private Business Development partnerships to foster business support, growth and enhancements, and quality affordable housing. "

FINANCIAL AND/OR POLICY IMPLICATIONS:

There are no financial implications of sending the attached letter to the County Board of Supervisors.

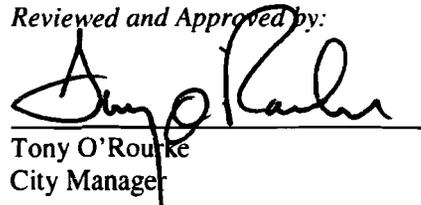
SIGNATURES:

By:



Nancy Kerry
Public Affairs/Communications Manager

Reviewed and Approved by:



Tony O'Rourke
City Manager

Attachments:

1. Letter to County Board of Supervisors with attached Resolution and Staff Report
2. Letter from California Communities requesting the action

Attachment 1

Letter from City Manager

With Attachments:
Legislative text for County Staff Report
and County Resolution attached



City of South Lake Tahoe

"making a positive difference now"

March 24, 2011

Terri Daly
Chief Administrative Officer and
Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Dear Ms. Daly and Supervisors:

The City of South Lake Tahoe has been working with Pacific West Communities, a developer of an affordable housing project in South Lake Tahoe for the last several years. The project, *The Aspens at South Lake* has recently been approved for \$5.1 million dollars in California HOME funding and has been approved by the City Council and Redevelopment Agency Board for a loan in the amount of \$2.1 million dollars. The project is also using revenue bond financing through the assistance of California Communities a Joint Powers Authority authorized to assist in the financing of affordable housing projects.

The Joint Powers Authority (JPA) is required to conduct a public hearing in the community of the project to provide the public an opportunity to be informed they will be issuing the bonds as described in the attached letter from California Communities. Therefore, although the JPA is the issuance of the obligations and the City and County bear no financial impact or responsibility to them, the public hearing must be held in the County or City. Normally, the public hearing would be held at a City Council meeting, unfortunately, the request from California Community to conduct the hearing was not submitted with sufficient time for meeting to held hearing by the deadline of April 18, 2011 and also provide the public 14-days notice prior to the hearing as required.

Therefore, this letter serves at the City of South Lake Tahoe's consent and request for the County of El Dorado to conduct a public hearing related to the project known as *The Aspens at South Lake* and its financing at its April 12, 2011 Board of Supervisor meeting. A representative from the City and California Communities will be on-hand at the meeting to answer questions should any arise.

Sincerely,

Tony O'Rourke
City Manager

cc: City Councilmembers, submitted during April 5, 2011 Council meeting

EL DORADO COUNTY LEGISLATIVE TEXT FOR STAFF REPORT

(NOTE: the legislative text is pasted into Legistar and submitted via a data entry system, not in this format)

Agenda Title: TEFRA CSCDA Hearing/Resolution

Title: Hearing to consider Resolution XX-2011 approving the issuance by the California Statewide Community Development Authority of (Multi-Family Housing) Revenue Bonds in one or more series from time to time in an aggregate principal amount not to exceed \$11,000,000 for the purpose of financing the acquisition, construction and development of a 47-unit multifamily rental housing project located at 3521 and 3541 Pioneer Trail, South Lake Tahoe, California, generally known as The Aspens at South Lake (the "Project") and operated by Cambridge Real Estate Services.

FUNDING: There is no cost associated with this action.

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Text of Legislative File

Hearing to consider Resolution XX-2011 approving the issuance by the California Statewide Community Development Authority of (Multi-Family Housing) Revenue Bonds in one or more series from time to time in an aggregate principal amount not to exceed \$11,000,000 for the purpose of financing the acquisition, construction and development of a 47-unit multifamily rental housing project located at 3521 and 3541 Pioneer Trail, South Lake Tahoe, California, generally known as The Aspens at South Lake (the "Project") and operated by Cambridge Real Estate Services. The bonds, if issued, will not be a liability of the County nor any of its agencies. All costs associated with the issuance and repayment of the bonds will be borne by the partnership.

FUNDING: There is no cost associated with this action.

BUDGET SUMMARY: \$0 cost in all categories

FISCAL IMPACT/CHANGE TO NET COUNTY COST: No change

REASON FOR RECOMMENDATION:

OVERVIEW

The project known as The Aspens at South Lake Tahoe has been in predevelopment phase for approximately four years. The project includes 47-units of affordable housing

and has been approved for funding by the State of California Department of Housing and Community Development in an amount up to \$5.1 million dollars and by the South Lake Tahoe Redevelopment Agency in an amount up to \$2.1 million dollars (see attachments).

The project developers, "Pacific West Communities, Inc. is a privately owned real estate development and financing firm specializing in the construction and rehabilitation of senior and family communities. Pacific West Communities has developed over 80 family and senior apartments throughout California, Arizona, New Mexico, Colorado, Utah, Nevada, Wyoming, Montana, Idaho, Oregon, and Washington.

Based on initial estimates, Pacific West Communities expects to invest approximately \$16.0 million in the construction of the property. In order to complete the acquisition and construction of The Aspens at South Lake Apartments project, Pacific West Communities intends to form a partnership with California Statewide Communities Development Authority (CSCDA) to construct The Aspens in the City of South Lake Tahoe. The partnership has proposed that the costs of the acquisition and construction be financed with the proceeds of tax-exempt bonds to be issued by CSCDA. In order for the bonds to be tax-exempt, the Internal Revenue Code requires that the local jurisdiction hold a Tax Equity and Fiscal Responsibility Act ("TEFRA") public hearing regarding the issuance of the bonds and the construction of the housing facility with proceeds of the bonds, and adopt a resolution approving the issuance of the bonds by CSCDA. The County currently is a member of CSCDA.

CSCDA

The California Statewide Communities Development Authority is a California joint exercise of powers authority, organized and existing under the laws of the State of California (specifically, California Government Code Section 6500 and following), and is sponsored by the League of California Cities and the California State Association of Counties. Under the California Government Code, cities and counties are authorized to form by agreement a governmental entity that combines the powers of such entities to perform certain governmental functions specifically outlined in the Agreement.

With respect to CSCDA, more than 500 California cities, counties and special districts, including the County of El Dorado, have entered into and executed the Agreement to become a member of the Authority. CSCDA was created by the League and CSAC in 1988 to enable local government and eligible private entities access to low-cost, tax-exempt financing for projects that provide a tangible public benefit, contribute to social and economic growth and improve the overall quality of life in local communities throughout California.

PUBLIC HEARING

Section 147(f) of the Internal Revenue Code of 1986 requires that, in order for the interest on a private activity bond to be excluded from the gross income of the owner of the bond (ie. tax-exempt), an "applicable elected representative" of the governmental unit issuing the bond must approve the issuance of the bond after a public hearing following reasonable public notice. The proposed bond issue by CSCDA (the proceeds

of which will be used by CSCDA to make a loan to the partnership that will acquire and construct Madera Family) is classified as a private activity bond for purposes of the Code. Section 147(f)(2)(E)(ii) of the Code provides that a governmental unit with elected representative and jurisdiction over the area in which the project to be financed is located, in this case the County Board of Supervisors, is an "applicable elected representative" with respect to the bond issue.

This required public hearing could be held either in the City of South Lake Tahoe or in El Dorado County. A letter sent by the South Lake Tahoe City Manager and approved by the South Lake Tahoe City Council at their April 5, 2011 Council meeting requests and consents to the public hearing be held in El Dorado County at the April 12, 2011 Board of Supervisors public meeting in order to meet required public noticing and hearing date deadlines and to provide a wide public audience to be notified of proposed issuance of the bonds.

NO FINANCIAL OBLIGATION OR COST TO COUNTY

Bond Counsel for the proposed bond issue, Orrick, Herrington, & Sutcliffe, LLP has prepared a notice of the public hearing, which was published in appropriate local newspapers of wide distributions on or before Tuesday, March 29, 2011. Bond Counsel has advised that the County will incur no obligation whatsoever by reason of its holding of the public hearing and approval of the issuance of the bonds by CSCDA.

AFFORDABILITY

100% of the units at The Aspens at South Lake Apartments will be reserved for tenants whose incomes are at or below 50% of the Area Median Income. The owners will record 55 year affordability covenants on the property.

PROJECT SUPPORT & ATTACHMENTS

Copies of the Resolution and Pacific West Community Application for Bond Financing are attached and on file with the Board Clerk.

Copies of the letter submitted by the South Lake Tahoe City Manager and staff report to the City Council regarding same letter are attached and on file with the Board Clerk.

Copies of the award letter from the State of California Department of Housing and Community Development awarding the project a total of \$5.1 million dollars in HOME funds (10-HOME-6347) are attached and on file with the Board Clerk.

Copies of adopted Resolutions of South Lake Tahoe City Council (2011-14) and South Tahoe Redevelopment Agency (2011-1) authorizing submittal of financing applications, and additional funding are attached and on file with the Board Clerk. The City of South Lake Tahoe has held numerous public hearings as the project has moved forward. In addition, public hearings were held by the Tahoe Regional Planning Agency and the South Tahoe Public Utility District in all cases the project received appropriate approvals and in the case of the South Tahoe Public Utility District received a fee deferral as short-term financial support for the project.

CONCLUSION

Staff recommends the Board of Supervisors hold the public hearing and adopt the enclosed resolution approving the issuance of bonds by CSCDA to finance the acquisition and construction of The Aspens at South Lake Apartments.

Recommendation and Action to be taken following board approval

Staff recommends the Board of Supervisors hold the public hearing and adopt the enclosed resolution approving the issuance of bonds by CSCDA to finance the acquisition and construction of The Aspens at South Lake Apartments.

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO APPROVING THE ISSUANCE BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY OF MULTIFAMILY HOUSING REVENUE BONDS FOR THE ASPENS AT SOUTH LAKE

WHEREAS, the California Statewide Communities Development Authority (the "Authority") is authorized pursuant to the provisions of California Government Code Section 6500 et seq. and the terms of an Amended and Restated Joint Exercise of Powers Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies throughout the State of California, including the County of El Dorado (the "County"), to issue revenue bonds in accordance with Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code for the purpose of financing multifamily rental housing projects; and

WHEREAS, SLT Pacific Associates, a California limited partnership, or related entities, has requested that the Authority adopt a plan of financing providing for the issuance of multifamily housing revenue bonds (the "Bonds") in one or more series issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, and at no time to exceed \$11,000,000 in outstanding aggregate principal amount, to finance the acquisition, construction and development of a 47-unit multifamily rental housing project located at 3521 and 3541 Pioneer Trail, South Lake Tahoe, California, generally known as The Aspens at South Lake (the "Project") and operated by Cambridge Real Estate Services; and

WHEREAS, the Bonds or a portion thereof will be "private activity bonds" for purposes of the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, pursuant to Section 147(f) of the Code, prior to their issuance, private activity bonds are required to be approved by the "applicable elected representative" of the governmental units on whose behalf such bonds are expected to be issued and by a governmental unit having jurisdiction over the entire area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice; and

WHEREAS, the members of this Board of Supervisors (this "Board of Supervisors") are the applicable elected representatives of the County; and

WHEREAS, there has been published, at least 14 days prior to the date hereof, in a newspaper of general circulation within the County, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice; and

WHEREAS, such public hearing was conducted on such date, at which time an opportunity was provided to interested parties to present arguments both for and against the issuance of the Bonds; and

WHEREAS, the Authority is also requesting that the Board of Supervisors approve the issuance of any refunding bonds hereafter issued by the Authority for the purpose of refinancing

the Bonds which financed the Project (the "Refunding Bonds"), but only in such cases where federal tax laws would not require additional consideration or approval by the Board of Supervisors; and

WHEREAS, it is intended that this resolution shall constitute the approval of the issuance of the Bonds required by Section 147(f) of the Code and Section 9 of the Agreement; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO AS FOLLOWS:

Section 1. The above recitals are true and correct.

Section 2. The Board of Supervisors hereby approves the issuance of the Bonds and the Refunding Bonds by the Authority. It is the purpose and intent of the Board of Supervisors that this resolution constitute approval of the Bonds for the purposes of (a) Section 147(f) of the Code and (b) Section 9 of the Agreement.

Section 3. The officers of the County are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing approved hereby.

Section 4. The Clerk of the Board of Supervisors shall forward a certified copy of this Resolution and a copy of the affidavit of publication of the hearing notice to:

Justin Cooper, Esq.
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, California 94105

Section 5. This resolution shall take effect immediately upon its passage.

ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Supervisors held on the 12th day of 2011, by the following vote:

AYES:

NOES:

ABSENT:

Chair

ATTEST:

Clerk of the Board of Supervisors

Attachment 2

Letter from California Communities

Also known as:
California Statewide Communities
Development Authority (CSCDA)



Building Communities, Investing in Local Government Since 1988

March 21, 2011

VIA EMAIL

Kathy Matranga-Cooper
County of El Dorado
330 Fair Lane
Placerville, CA 95667

Re: Public Hearing for The Aspens at South Lake Apartments Project

Dear Kathy:

Pacific West Communities, Inc. (the "Applicant") has submitted to the California Statewide Communities Development Authority (the "Authority") an application for the construction of The Aspens at South Lake Apartments project in South Lake Tahoe through the issuance of tax-exempt obligations in an aggregate principal amount not to exceed \$11 million. The purpose of this letter is to request assistance from the County of El Dorado in conducting a public hearing with respect to the proposed financing. It is our understanding that the County will conduct the public hearing on April 12, 2011.

The Authority is a joint exercise of powers authority consisting of over 500 California cities, counties and special districts, including the County of El Dorado. The Authority pursuant to its Amended and Restated Joint Exercise of Powers Agreement is authorized to assist in the financing of facilities for multifamily housing projects. In order to initiate such a financing, the member participant of the Authority in which the proposed facilities will be located must (i) conduct a public hearing and (ii) approve the Authority's issuance of indebtedness. Therefore, although the Authority will be the issuer of the tax-exempt revenue obligations for the Applicant, the financing cannot proceed without the County's approval of the financings.

I have attached for your review a copy of the Application and attachments filed with the Authority. You will be receiving a letter from Justin Cooper of Orrick, Herrington & Sutcliffe serving as bond counsel, describing the public hearing process and the requirements under state and federal laws, including the Tax Equity and Fiscal Responsibility Act (TEFRA). This letter will include for your review the form of Notice of Public Hearing and the form of the Board of Supervisor's Resolution evidencing that the County has approved of the financing.

Founding Co-Sponsors:



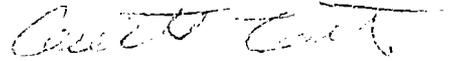
2033 North Main Street, Suite 700 • Walnut Creek, California 94596

800.635.3993 • 925.933.9229 • Fax 925.933.8457 • info@cacommunities.org • www.cacommunities.org

March 21, 2011

Thank you for your assistance in this matter. Please let me know if you require any additional information concerning the scheduling of such public hearing or if I can be of any other assistance.

Thank you,



Caitlin Lanctot
Program Manager

Enclosures

cc: Justin Cooper (jcooper@ortrick.com)

Caleb Roope (calebr@tpchousing.com)

CITY OF SOUTH LAKE TAHOE

CITY COUNCIL

RESOLUTION NO. 2011 - 14

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) REQUESTING UP TO \$5.1 MILLION FOR THE DEVELOPMENT OF A MULTIFAMILY AFFORDABLE HOUSING PROJECT (THE ASPENS) AT 3521/3541 PIONEER TRAIL AND IF SELECTED, THE EXECUTION OF A STANDARD AGREEMENT, AND ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE HOME INVESTMENT PARTNERSHIPS PROGRAM;

WHEREAS, the California Department of Housing and Community Development ("HCD") is authorized to allocate HOME Investment Partnerships Program ("HOME") funds made available from the U.S. Department of Housing and Urban Development ("HUD"). HOME funds are to be used for the purposes set forth in Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, in federal implementing regulations set forth in Title 24 of the Code of Federal Regulations, part 92, and Title 25 of the California Code of Regulations commencing with section 8200; and

WHEREAS, on January 20, 2011, the Department issued a 2011 Notice of Funding Availability announcing the availability of funds under the HOME program (the "NOFA"); and

WHEREAS, in response to the 2011 NOFA, City of South Lake Tahoe, a political subdivision of the State of California (the "Applicant"), wishes to apply to the Department for, and receive an allocation of, HOME funds.

WHEREAS, results from a December 2010 survey of South Lake Tahoe residents indicate 80% of the community desires more quality affordable housing; and

WHEREAS, the City's state-certified January 26, 2009 Housing Element indicated approximately twelve percent (12%) of renters living in the City of South Lake Tahoe are living in severely overcrowded conditions of more than 1.5 persons per room; and

WHEREAS, as documented in the City's state-certified January 26, 2009 Housing Element, approximately eight percent of the population of the City of South Lake Tahoe are living in severely overcrowded conditions of more than 1.5 persons per room; and

WHEREAS, as documented the City's state-certified January 26, 2009 Housing Element 85% of the City's housing stock was built before 1980 and between 56.2% of households pay greater than 30% of their income for housing costs and 32.8% of renters spend greater than 50% of their income on housing costs;

WHEREAS, Pacific West (PacWest) Communities, Inc. (the developer) is a well-established real estate and financing firm specializing in the development and ownership of affordable workforce housing throughout the western United States, including 50 in

California, specializing in the use of the affordable housing tax credits, federal, state, and local resources including HOME Funds, Community Development Block Grants (CDBG) to successfully produce projects throughout the west coast; and

WHEREAS, the Key Principal for the project developer, Caleb Roope, has managed the development and construction of over 80 projects including many in California; and

WHEREAS, the South Tahoe Redevelopment Agency Board has authorized the use of \$2,500,000 in Redevelopment Agency low- and moderating-income housing funds as a loan to PacWest with a Return on Investment (ROI) to the City of three percent (3%), payable out of project proceeds beginning in or around year twelve of the project; and

WHEREAS, the housing units produced will be outside the Redevelopment Project Area; and

WHEREAS, Section 33334.2(g) of the State of California Health and Safety Code declares that a Redevelopment Agency may use low- and moderate-income housing funds outside the project area, but only upon a resolution of the Agency and City Council that such will be of benefit to the project (This Resolution shall serve this purpose for the City Council); and

WHEREAS, Section 33334.2(g) of the State of California Health and Safety Code also states, "That the Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always a benefit to a project."

IT IS NOW THEREFORE RESOLVED THAT:

IT IS NOW THEREFORE RESOLVED THAT:

1. The above recitals are true and correct.
2. In response to the 2011 NOFA, the Applicant shall submit an application to the Department to participate in the HOME program and for an allocation of funds not to exceed Five Million One Hundred Thousand Dollars (\$5,100,000.00) for the following activities and/or programs.
3. A 48-unit Rental New Construction affordable housing project for very low and low-income renter families to be located at 3521/3541 Pioneer Avenue (APN: 027-323-10 and 027-323-16) in the City of South Lake Tahoe, California.
4. If the application for funding is approved, then the Applicant hereby agrees to use the HOME funds for eligible activities in the manner presented in its application as approved by the Department in accordance with the statutes and regulations cited above. The Applicant may also execute a standard agreement, any amendments thereto, and any and all other documents or instruments necessary or required by the Department or HUD for participation in the HOME program (collectively, the required documents).

5. The City finds and declares that since the \$2,500,000 of low- and moderate-income housing funds will be used for the proposed rental, new construction, affordable housing project, in conjunction with HOME funds if awarded, to create replacement housing for the South Tahoe Redevelopment Agency, that the use of low- and moderate-income housing funds outside the Project Area is of benefit to the Project pursuant to Section 33334.2(g) of the State of California Health and Safety Code.
6. The applicant authorizes the City Manager or his/her designees to execute in the name of the applicant the required HCD documents.

BE IT FURTHER RESOLVED that the Council finds, pursuant to Health and Safety Code section 33334.3(j) that the Developer has made good faith efforts to obtain private or commercial financing for purposes of acquiring and constructing the Project, but is unable to obtain such financing to maintain the level of affordability and quality of units contemplated herein; and

BE IT FURTHER RESOVLED that the Council finds that pursuant to Labor Code section 1720(c)(6)(E) that the funds will be used to provide a below-market rate loan to create housing in which more than 40% of the units are available to families earning at or below 80% of Area Median Income; and

BE IT FURTHER RESOLVED the applicant authorizes the City Manager or his/her designee(s) to execute, in the name of the applicant, the Loan Agreement, the Regulatory Agreement, and such other documentation reasonably necessary to document the loan between the Agency and Pacific West (PacWest) Communities, Inc. or its limited partnership affiliate as described in the accompanying staff report, all in a form approved by the Agency Legal Counsel.

PASSED AND ADOPTED by the City Council of the City of South Lake Tahoe at a regular meeting on February 8, 2011 by the following vote:

AYES: Council Member(s) COLE, FORTIER, DAVIS, GREGO & SWANSON

NOES: Council Member(s) _____

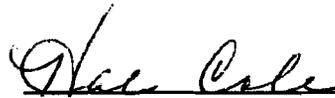
ABSENT: Council Member(s) _____

ABSTAIN: Council Member(s) _____

ATTEST:



Susan Alessi, City Clerk



Hal Cole, Mayor

