

RESOLUTION NO. 2014-5

**RESOLUTION OF THE OVERSIGHT BOARD TO THE
SUCCESSOR AGENCY OF THE SOUTH TAHOE
REDEVELOPMENT AGENCY MAKING A FINDING TO RE-
ESTABLISH A 2004 LOAN AGREEMENT BETWEEN THE
SUCCESSOR AGENCY AND THE CITY OF SOUTH LAKE
TAHOE AS AN ENFORCEABLE OBLIGATION AND TAKING
CERTAIN RELATED ACTIONS**

WHEREAS, the South Tahoe Redevelopment Agency (the "Former RDA") was a duly constituted redevelopment agency pursuant to provisions of the Community Redevelopment Law (the "Redevelopment Law") set forth in Section 33000 et seq. of the Health and Safety Code ("HSC") of the State of California (the "State"); and

WHEREAS, the Former RDA and the City of South Lake Tahoe (the "City") entered into Loan and Repayment Agreement on March 16, 2004 ("the 2004 Loan Agreement"), pursuant to which the City made a loan to the Former RDA for costs and expenses related to the implementation of the Former RDA's redevelopment program (the "2004 City Loan"); and

WHEREAS, as of the date of this Resolution, a portion of the 2004 City Loan remain outstanding and unpaid; and

WHEREAS, pursuant to AB X1 26 (which became effective at the end of June 2011), and the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.* (53 Cal.4th 231(2011)), the Former RDA was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Former RDA, and an oversight board of the Successor Agency (the "Oversight Board") was established; and

WHEREAS, pursuant to AB X1 26, except for those provisions of the Redevelopment Law that are repealed, restricted or revised pursuant to AB X1 26, all authority, rights, powers, duties and obligations previously vested with the Former RDA under the Redevelopment Law are vested in the Successor Agency, and

WHEREAS, pursuant to HSC Sections 34171(d) and 34178, the 2004 Loan Agreement became invalid and non-binding on the Successor Agency as of February 1, 2012; provided, however, that pursuant to HSC Section 34191.4(b), the 2004 City Loan shall be re-established and the 2004 Loan Agreement shall be deemed to be an enforceable obligation after the Successor Agency receives a finding of completion (a "Finding of Completion") from the State Department of Finance (the "DOF") under HSC 34179.7, if the Oversight Board makes a finding that the 2004 City Loan was for legitimate redevelopment purposes, and

WHEREAS, the DOF issued a Finding of Completion to the Successor Agency on February 6, 2014; and

WHEREAS, the Board desires to adopt this Resolution and requests the Oversight Board to make a finding that the 2004 City Loan was made for legitimate purposes in order to re-establish the 2004 Loan Agreement as an enforceable obligation for the purposes of HSC Section 34191.4(b); and

WHEREAS, the funds advanced by the City of South Lake Tahoe to the Former Redevelopment Agency between 1999 and 2003 were used to pay for public improvements in Redevelopment Project Area No. 1 ("Project Area"), which included but are not limited to, the realignment of Park Avenue, the construction of a right turn land between Pioneer Trail and Park Avenue, the reconstruction of Van Sickle Avenue, construction of Drainage Basins, improvements to Fern Avenue, the Intermodal Transit Center, the Stream Environment Zone ("SEZ") Restoration area, Transit Way and other streetscape improvements in the Project Area; and

WHEREAS, the project activities and costs as described above improved or eliminated conditions of physical blight in the Project Area, which are legitimate redevelopment purposes; and

WHEREAS, on this date, the Oversight Board will also consider the adoption of a separate resolution regarding the Successor Agency's repayment with respect to a loan incurred by the Former RDA in connection with a statutorily required remittance to the El Dorado County Supplemental Educational Revenue Augmentation Fund for fiscal year 2010-11 (the "SERAF Loan"); and

WHEREAS, it is recognized that, pursuant to HSC Section 34191.4(b), the aggregate repayment amount authorized each fiscal year for the SERAF Loan and the 2004 City Loan to be repaid by the Successor Agency shall not exceed one-half of the increase between the amount distributed to taxing entities pursuant to HSC Section 34183(a)(4) in that fiscal year and the amount distributed to taxing entities pursuant to HSC Section 34183(a)(4) in the 2012-13 base year; and

WHEREAS, it is recognized that, pursuant to HSC Sections 34176(e)(6)(B) 34191.4(b), the repayment of the SERAF Loan will have priority over the repayment of the 2004 City Loan and the SERAF Loan will be repaid in full before any repayment of the re-established 2004 City Loan; and

WHEREAS, it is further recognized that HSC Section 34191.4(b)(2) provides that 20 percent of each repayment on the 2004 City Loan will be deducted and transferred to the Low and Moderate Income Housing Asset Fund established and held by the housing successor to the Former RDA pursuant to HSC Section 34176;

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SOUTH TAHOE REDEVELOPMENT SUCCESSOR 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. For the purposes of HSC Section 34191.4, the Oversight Board hereby finds that the 2004 City Loan was for legitimate redevelopment purposes, and the 2004 Loan Agreement is an enforceable obligation; provided, that the repayment terms thereunder shall be modified in accordance with the requirements of HSC Section 34191.4(b).

Section 3. The Administrative Services Director of the City, who is the Finance Officer of the Successor Agency, is hereby authorized to develop a repayment schedule for the 2004 City Loan in accordance with the requirements of Section 34191.4(b). Recognizing that the actual dollar amount to be repaid by the Successor Agency for each scheduled repayment is subject to the availability of funds from the Redevelopment Property Tax Trust Fund and the limitations set forth in HSC Section 34191.4(b), the Finance Officer is hereby authorized to modify the repayment schedule from time to time based on the requirements of HSC Section 34191.4(b) and the actual circumstances at the time of the modification.

Section 4. The members of the Oversight Board and the officers of the Successor Agency are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all instruments which they may deem necessary or advisable in order to effectuate the purposes of this Resolution.

PASSED AND ADOPTED by the Oversight Board of the Successor Agency of the South Tahoe Redevelopment Agency at a duly noticed meeting held on July 25, 2014 by the following vote:

AYES: Members COLE, BAUGH, KERRY, MURILLO & VOETGESANG

NOES: Members _____

ABSTAIN: Members MIKULACO

ABSENT: Members MEYERS

ATTEST:


Ellen Palazzo, Secretary


Hal Cole, Chair