

OVERSIGHT BOARD RESOLUTION NO. 2015-04

CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA

A RESOLUTION OF THE OVERSIGHT BOARD OF THE
SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT
COMMISSION OF THE CITY OF SOUTH GATE AUTHORIZING THE
SUCCESSOR AGENCY TO ENTER INTO A LOAN AGREEMENT
(HSC §34173(h)) WITH THE CITY OF SOUTH GATE

WHEREAS, the Community Development Commission of the City of South Gate (“Agency”) previously was a public body, corporate and politic formed, organized, existing and exercising its powers pursuant to Section 34100, *et seq.* of the California Health and Safety Code, and exercised the powers, authority, functions, and jurisdiction of a community redevelopment agency formed, organized, existing and exercising its powers pursuant to the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq.* (“CRL”), and specifically formed by the City Council (“City Council”) of the City of South Gate (“City”); and

WHEREAS, Part 1.85, Division 24 of the California Health & Safety Code is the law governing the dissolution and wind down of all redevelopment agencies (“Dissolution Law”); and

WHEREAS, as of and on and after February 1, 2012, the Successor Agency is administering the enforceable obligations of the former Agency and otherwise unwinding the former Agency’s affairs, all subject to the review and approval by a seven-member oversight board (“Oversight Board”); and

WHEREAS, pursuant to Section 34179 the Successor Agency’s Oversight Board has been formed and the initial meeting occurred on April 23, 2012; and

WHEREAS, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Act; and

WHEREAS, Section 34171(d)(1)(F) defines “enforceable obligation” to include: “Contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part,...”; and

WHEREAS, Section 34173(h) authorizes the City, as sponsoring community, to loan funds to the Successor Agency for administrative costs, enforceable obligations, or project-related expenses at its discretion; and

WHEREAS, the Successor Agency adopted a ROPS for the fiscal period July 1, 2015 to December 31, 2015 (“ROPS 15-16A”) that was approved by the Oversight Board and thereafter submitted to the State of California, Department of Finance (“DOF”); however, DOF denied Item No. 3 on ROPS 15-16A relating to the debt service payment due on August 1, 2015 under the HUD Section 108 Loan Documents (as the term is defined in the

next recital), which denial was described in a letter from DOF to the Successor Agency issued and dated May 15, 2015 (albeit received on May 16 at 12:03 a.m.); and

WHEREAS, on July 28, 1999, the City and the Secretary of Housing and Urban Development (“HUD”) entered into that certain Contract for Loan Guarantee Assistance under Section 108 of the Housing and Community Development Act of 1974, as Amended, 42 U.S.C. §5308 for Series HUD 2000-A Certificates dated September 8, 1999 (“HUD Section 108 Loan Contract”). The HUD Section 108 Loan Contract required various kinds of security and collateral for repayment and debt service on the “HUD Section 108 Loan,” which were evidenced in the 1999 HUD Section 108 Loan Contract and several ancillary agreements and instruments that were defined, incorporated by reference, and attached to that contract, including Promissory Note 95 MC-06-0530 executed by the City in favor of HUD, the Subrecipient Cooperation and Pledge Agreement entered into between the City and former RDA under which pursuant to the requirements of the HUD Section 108 Loan Contract the former RDA pledged tax increment as security for the HUD Section 108 Loan (Attachment 3 thereof, “Tax Increment Pledge Agreement”), the description of the Tax Increment Financing Revenues pledged thereunder (Attachment 5 thereof, “Pledged Tax Increment Revenues”), the Fiscal Agency Agreement, the Trust Agreement (defined together in the HUD Section 108 Loan Contract as the “Fiscal Agency/Trust Agreements”), and other related documents. Thereafter, in mid-2000, HUD issued its 2000-A Certificates that were pooled bonds secured by multiple participating jurisdictions, including the original principal amount of \$3,625,000 for the subject HUD Section 108 Loan, which bonds and related instruments are obligations of South Gate to the federal government as further described in that certain Contract for Loan Guarantee Assistance executed by the City on May 30, 2000 and by HUD on June 14, 2000 as part of the bond closing documents for HUD’s issuance of such HUD 2000 A Certificates (together, “HUD Section 108 Loan Documents”); and

WHEREAS, in the May 15, 2015 letter the DOF continued to refuse to recognize the HUD Section 108 Loan Documents as an “Enforceable Obligation” under the Dissolution Law and determined and characterized the Tax Increment Pledge Agreement as a “junior” security in relation to the security pledged toward debt service, which payments are due each February 1 and August 1 on the remaining balance of the HUD Section 108 Loan, despite the fact that prior to the ROPS 14-15A, 14-15B and 15-16A fiscal periods all debt service payments (from loan inception in 1999 through February 2014) were sourced solely from the pledged tax increment funds, and despite the fact that DOF had approved the HUD Section 108 Loan, including the Tax Increment Pledge Agreement, as an Enforceable Obligation and authorized allocations of funds from the Redevelopment Property Tax Trust Fund (“RPTTF”) to the Successor Agency to pay debt service on the HUD Section 108 Loan for the prior five (5) six month fiscal periods of the recognized obligation payment schedules (“ROPS”), including ROPS I (January 1, 2012 to June 30, 2012), ROPS II (July 1, 2012 to December 31, 2012), ROPS III (January 1, 2013 to June 30, 2013), ROPS 13-14A (July 1, 2013 to December 31, 2013), and ROPS 13-14B (January 1, 2014 to June 30, 2014); and

WHEREAS, because the DOF denied RPTTF funding for the Successor Agency to make the August 1, 2015 debt service payment on the HUD Section 108 Loan and because both the City and Successor Agency did not desire or intend to default on the HUD Section 108 Loan and there being no other “security” as defined in the HUD Section 108 Loan Documents available to make such debt service payment due, the City Council authorized

appropriation and advanced to the Successor Agency \$294,092.55 from the City's General Fund Unassigned Fund Balance (Reserve Account) to pay and make temporarily that August 1, 2015 debt service payment until such time as funding by DOF is approved through ROPS 15-16B (fiscal period January 1, 2016 to June 30, 2016) or until a court of competent jurisdiction orders the DOF to remit such funds to the Successor Agency in the pending legal action filed by the City and Successor Agency against the DOF, the County of Los Angeles Auditor-Controller, and the affected taxing entities (Sacramento Superior Court Case No. 34-2014-80001915 ("Action")); and

WHEREAS, as noted Section 34173(h) authorizes the City to loan funds to the Successor Agency for enforceable obligations at the City's discretion, and that such loan must be reflected on the Successor Agency's ROPS, which is subject to the approval of the Successor Agency's Oversight Board; and

WHEREAS, the Successor Agency desires that the Oversight Board authorize it to enter into a Loan Agreement with the City to repay the City for advancing and loaning funds to make the August 1, 2015 debt service payment on the HUD Section 108 Loan; and

WHEREAS, the Loan Agreement and Loan described therein, if authorized by this Oversight Board, will be reflected on the Successor Agency's Recognized Obligation Payment Schedules, including the next ROPS 15-16B and thereafter; and

WHEREAS, the Oversight Board has reviewed the Loan Agreement and desires to authorize the Successor Agency to enter into such agreement, and to cause posting of this Resolution on the Successor Agency website, and to direct transmittal thereof with a copy of such contract to the County of Los Angeles Auditor-Controller and Department of Finance ("DOF"); and

WHEREAS, pursuant to Section 34179(h) written notice and information about all actions taken by the Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing, and an Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF SOUTH GATE DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

Section 2. Pursuant to the Dissolution Act, the Oversight Board authorizes the Successor Agency to enter into the Loan Agreement (HSC §34173(h)), which is attached and incorporated herein by this reference.

Section 3. The Oversight Board authorizes transmittal of such contract to the County of Los Angeles Auditor-Controller and DOF.

Section 4. The City Manager/Executive Director or his authorized designee is directed to post this Resolution on the Successor Agency website pursuant to the Dissolution Act.

Section 5. Pursuant to Section 34179(h) written notice and information about all actions taken by the Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing. An Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.

Section 6. The Secretary of the Oversight Board shall certify to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 29th day of July 2015.



W. H. (Bill) De Witt, Chair
Oversight Board of the Successor Agency to the
Community Development Commission of the City
of South Gate

ATTEST:



Carmen Avalos, Secretary
Oversight Board of the Successor Agency
to the Community Development Commission
of the City of South Gate

(SEAL)


RESOLUTION CERTIFICATION PAGE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF SOUTH GATE)

I, Carmen Avalos, Secretary of the Oversight Board of the Successor Agency to the Community Development Commission of the City of South Gate, California, hereby certify that the whole number of Members of the Oversight Board of said City is seven; that Resolution No. 2015-04 was adopted by the Oversight Board at their Meeting held on July 29, 2015, by the following vote:

Ayes:	Board Members:	De Witt, Liday, Bokde, el Fattal, Shidler and Torres
Noes:	Board Members:	None
Absent:	Board Members:	Mendez
Abstain:	Board Members:	None

Witness my hand and the seal of said City on August 26, 2015.


Carmen Avalos, Secretary
Oversight Board of the Successor Agency
to the Community Development Commission
of the City of South Gate, California