

RESOLUTION NO. 017

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE PALM SPRINGS COMMUNITY REDEVELOPMENT AGENCY, APPROVING A CASH LOAN FROM THE CITY OF PALM SPRINGS TO THE SUCCESSOR AGENCY TO COMPLY WITH HEALTH AND SAFETY CODE SECTION 34179.6(f), IN THE AMOUNT OF \$1,500,000.

WHEREAS, the Community Redevelopment Agency of the City of Palm Springs ("Redevelopment Agency") was a redevelopment agency in the City of Palm Springs ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, the Community Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

WHEREAS, AB X1 26 and AB X1 27 were signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the California Health and Safety Code, which effectively dissolves the Redevelopment Agency ("Dissolution Act"); and

WHEREAS, under the Dissolution Act, the term "successor agency" was defined to refer to the Dissolved RDA's Sponsoring Community (the city, county or city and county that formed the Dissolved RDA), unless that Sponsoring Community adopted a resolution electing not to serve in that capacity; and

WHEREAS, AB 1484, signed by the Governor of California on June 27, 2012, redefines "successor agency" to mean the successor entity to the Dissolved RDA pursuant to Health and Safety Code Section 34173 and that "a successor agency is a separate legal entity from the public agency that provides for its governance;" and

WHEREAS, as a separate legal entity, the Successor Agency is not merged with the City, the public agency that provides for the Successor Agency's governance (Health and Safety Code Section 34173(g)); and

WHEREAS, the City is not the financial "backstop" or guarantor of obligations of separate government entities, regardless of its status as a Successor Agency; and

WHEREAS, Health & Safety Code Section 34171(d)(1)(F) recognizes as an "Enforceable Obligation" of the Successor Agency contracts or agreements necessary for the administration or operation of the Successor Agency, including, but not limited to, agreements concerning litigation expenses related to assets or obligations, settlements and judgments, and the costs of maintaining assets prior to disposition; and

WHEREAS, Health and Safety Code Section 34173(h) provides that the City may loan or grant funds to the Successor Agency for administrative costs, enforceable obligations or project-related expenses and that receipt and use of these funds shall be reflected on the ROPS or in the administrative budget subject to Oversight Board approval; and

WHEREAS, Health and Safety Code Section 34177.3(b) authorizes the Successor Agency to create "Enforceable Obligations" to conduct the work of winding down the Dissolved Redevelopment Agency; and

WHEREAS, Health and Safety Code Section 34178(a) authorizes the Successor Agency to enter into agreements with the City upon obtaining approval of the Oversight Board; and

WHEREAS, in September, 2012, the Successor Agency commissioned a required Due Diligence Review (DDR) of its Low and Moderate Income Housing Fund, which determined the amount of unencumbered cash in the Low and Moderate Income Housing fund, which was then required to be remitted to the Riverside County Treasurer pursuant to Health and Safety Code Section 34179.6(f); and

WHEREAS, in November, 2012 the City wired the amount of \$7,701,693.13 to the County, which was less than the amount demanded in a November 7, 2012 letter from the California Department of Finance (DOF), which sought the additional amount of \$1,500,000 that the former redevelopment agency had loaned to a developer for a low-moderate income senior housing project that in the DOF's opinion was voided by the Dissolution Act; and

WHEREAS, the Successor Agency engaged the DOF in a "Meet and Confer" process and pursued litigation to make its case as to the validity of the loan to the low-moderate income senior housing developer, but so far has been unsuccessful and the litigation is pending; and

WHEREAS, the DOF will issue a finding of completion to a successor agency that pays the following amounts: (a) The amount determined in the audit of the LMIHF; (b) The amount determined in the audit of all other funds; and (c) The amount (if any) owing to taxing entities from the December 2011 property tax payment; and

WHEREAS, a finding of completion from the DOF allows the winding down process to continue expeditiously and loan agreements entered into between the former Redevelopment Agency and the City are deemed to be enforceable obligations if the Oversight Board makes a finding that the loan was for bona fide redevelopment purposes. As enforceable obligations, payments are listed on ROPS; and

WHEREAS, the Successor Agency wishes to loan \$1,500,000 from the City to expeditiously wind down the former Redevelopment Agency for the benefit of the taxing agencies, and in order to establish and declare the terms and conditions upon which the Loan is to be made and secured, the Successor Agency and the City wish to enter into a Loan Agreement; and

WHEREAS, the loan from the City will allow the Successor Agency to comply with the requirements of the Dissolution Act and will benefit the taxing agencies by providing immediate funds to be distributed to the taxing agencies pursuant to Health and Safety Code Section 34179.6(f); and

WHEREAS, the loan may be prepaid by the Successor Agency without penalty should the developer repay the Successor Agency, or else the loan will be repaid from available tax increment income, subsequent to the loan amount having been distributed to the taxing agencies; and

WHEREAS, all acts and proceedings required by law necessary to make the Loan Agreement, when executed by the Successor Agency and the City, the valid, binding and legal obligations of the Successor Agency and the City, and to constitute the Loan Agreement a valid and binding Agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of the Loan Agreement have been in all respects duly authorized; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

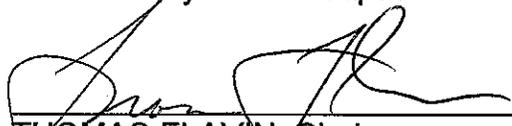
NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS AS FOLLOWS:

SECTION 1. The Oversight Board hereby finds and determines that the foregoing recitals are true and correct, and incorporates them herein by reference.

SECTION 2. The Loan Agreement by and between the City of Palm Springs and the Successor Agency of the Community Redevelopment Agency of the City of Palm Springs, for the purpose of providing a cash flow loan to cover the Successor Agency's obligations as described in the Recitals is hereby approved.

SECTION 3. The Oversight Board hereby directs staff of the Successor Agency to submit the approved Loan Agreement to the County Auditor-Controller, the State Controller and the State Department of Finance; and post this Resolution on the Successor Agency's website.

SECTION 5. This Resolution shall take effect five days of its adoption.


THOMAS FLAVIN, Chairman
CRA Oversight Board

ATTEST:


JAMES THOMPSON, Clerk/Secretary

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, James Thompson, Clerk/Secretary of the Oversight Board of the Successor Agency of the Palm Springs Community Redevelopment Agency hereby certify that Resolution No. 017 was adopted by the Oversight Board at a Special Meeting held on the 16th day of December, 2013, and that the same was adopted by the following vote:

AYES: Board Members Foat, Ready, Van Horn, Vice Chair Howell and
Chair Flavin.
NOES: None.
ABSENT: Board Members Arthur and Marshall.
ABSTAIN: None.



JAMES THOMPSON
Oversight Board Clerk/Secretary
City of Palm Springs, California