

## RESOLUTION OBSA-008

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY APPROVING THE SECOND LOAN AGREEMENT BETWEEN THE CITY OF SOLANA BEACH AND THE SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY IN ORDER FOR THE SUCCESSOR AGENCY TO PAY CERTAIN ENFORCEABLE OBLIGATIONS DUE IN THE PERIOD ENDING DECEMBER 31, 2012.**

**WHEREAS**, on December 29, 2011, the California Supreme Court delivered its decision in *California Redevelopment Association v. Matosantos*, finding Assembly Bill X1 26 (the "Dissolution Act") largely constitutional; and

**WHEREAS**, under the Dissolution Act and the California Supreme Court's decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Solana Beach Redevelopment Agency (the "Dissolved RDA"), were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of winding down the business and fiscal affairs of the former redevelopment agencies; and

**WHEREAS**, on January 11, 2012, the City Council (the "City Council") of the City of Solana Beach (the "City") adopted Resolution No. 2012-011 accepting for the City the role of Successor Agency to the Dissolved RDA (the "Successor Agency"); and

**WHEREAS**, under the Dissolution Act, an oversight board is established for each successor agency to a former redevelopment agency with the responsibility of overseeing the activities of the successor agency and approving certain actions of the successor agency in connection with the successor agency's wind down of the affairs of the former redevelopment agency; and

**WHEREAS**, the oversight board (the "Oversight Board") for the Successor Agency has been duly constituted pursuant to the Dissolution Act, and on April 12, 2012, the Oversight Board conducted its first duly noticed public meeting at which the Oversight Board members were duly sworn into office and certain other actions were taken; and

**WHEREAS**, on April 12, 2012, the Successor Agency requested the Oversight Board to approve a proposed loan agreement between the City and the Successor Agency (the "First Loan Agreement") as an enforceable obligation under the Dissolution Act, wherein the City would advance funds to the Successor Agency in the total amount not to exceed \$278,215 (the "First Loan") for the purpose of the Successor Agency paying debt service and costs on the 2006 Tax Allocation Bond due in May and June of 2012 as set forth in Items 1 through 4 on the first Recognized Obligation Payment Schedule of the Successor Agency for the period ending June 30, 2012 (the "First

ROPS"), and certain administrative costs due in May and June of 2012 as set forth in Items 5 through 12 on the First ROPS; and

**WHEREAS**, in addition and in connection with the First Loan Agreement, the Oversight Board approved the Successor Agency's repayment of the First Loan from the City in each six (6) month period with a pledge of property taxes payable from the Redevelopment Property Tax Trust Fund ("RPTTF") maintained by San Diego County for the purpose of paying enforceable obligations of the Successor Agency, at an interest rate on such First Loan equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund and further approved the repayment of the First Loan as set forth in Item 16 on the Recognized Obligation Payment Schedule of the Successor Agency for the period ending December 31, 2012 (the "Second ROPS"); and

**WHEREAS**, the City and the Successor Agency entered into the First Loan Agreement on April 25, 2012; and

**WHEREAS**, the Second ROPS as approved by the Oversight Board showed that the payment of all enforceable obligations of the Successor Agency, including repayment of the First Loan, would require the allocation of \$533,745 from the RPTTF to the Successor Agency, and the Successor Agency's administrative cost allowance would require the allocation of \$125,000 from the RPTTF to the Successor Agency, for a total allocation to the Successor Agency's Redevelopment Obligation Retirement Fund (the "RORF") of \$658,715; and

**WHEREAS**, on May 1, 2012, the Successor Agency received from the San Diego County Auditor-Controller a document entitled *Estimated RPTTF Allocations and Distributions*, which document estimated that the Successor Agency's RORF would receive only \$5,860.78 from the RPTTF on June 1, 2012 to pay enforceable obligations and administrative costs shown on the Second ROPS; and

**WHEREAS**, on June 1, 2012, the Successor Agency received from the RPTTF \$88,018.42 and not the estimated \$5,860.78; and

**WHEREAS**, to enable the Successor Agency to meet its fiduciary responsibilities to holders of enforceable obligations, in particular the owners of the 2006 Tax Allocation Bonds, and for the Successor Agency to have adequate funds for administration, the Successor Agency desires to borrow from the City an amount not to exceed \$374,669.22 (the "Second Loan") for the purpose of paying the following obligations shown on the Second ROPS: (a) a portion of the debt service due for 2006 Tax Allocation Bonds as set forth in Item 1 on the Second ROPS, to the extent that distributions from the RPTTF to the RORF are insufficient to make the required payments; (b) arbitrage services as set forth in Item 4 on the Second ROPS; (c) Oversight Board legal counsel as set forth in Item 17 on the Second ROPS; and (d) certain Successor Agency administrative costs as set forth in Items 5 through 12 on the Second ROPS; and

**WHEREAS**, the "Second Loan Agreement" attached hereto as "Exhibit A", provides for the Successor Agency's repayment of the Second Loan from the City in each six (6) month period with a pledge of property taxes payable from the RPTTF, at an interest rate on such Second Loan equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund; and

**WHEREAS**, pursuant to Health and Safety Code Sections 34173(h), 34178(a), 34180(b) and 34180(h), the Oversight Board has the authority to approve the proposed Second Loan Agreement and the terms for repayment of the Loan, including the pledge of property tax for such repayment payable from the Redevelopment Property Tax Trust Fund maintained by San Diego County for the purpose of paying enforceable obligations of the Successor Agency; and

**WHEREAS**, after reviewing the terms of the proposed Second Loan Agreement between the City and the Successor Agency, the Second Loan from the City to the Successor Agency, and the Successor Agency's repayment of such Second Loan as presented to and recommended for approval to the Oversight Board by the Successor Agency, and after reviewing any written and oral comments from the public relating thereto, the Oversight Board desires to approve the terms of the Second Loan and the proposed Second Loan Agreement and to make the following accompanying findings, resolutions and determinations.

**NOW, THEREFORE, BE IT RESOLVED** that the Oversight Board of the Successor Agency for the Dissolved RDA hereby finds, resolves, and determines as follows:

SECTION 1. The foregoing recitals are true and correct, and, together with information provided by the Successor Agency and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

SECTION 2. Pursuant to Health and Safety Code Sections 34173(h), 34178(a), 34180(b) and 34180(h), the Oversight Board has the authority to approve (i) the proposed Second Loan Agreement between the City and the Successor Agency as an enforceable obligation under the Dissolution Act, wherein the City would advance funds to the Successor Agency in the total amount not to exceed \$374,669.22 for the purpose of the Successor Agency paying certain enforceable obligations listed on the second Recognized Obligation Payment Schedule of the Successor Agency for the period ending December 31, 2012 and (ii) the Successor Agency's repayment of the Second Loan from the City in each six (6) month period with a pledge of property taxes payable from the Redevelopment Property Tax Trust Fund maintained by San Diego County for the purpose of paying enforceable obligations of the Successor Agency, at an interest rate on such Second Loan equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund.

SECTION 3. The Oversight Board hereby finds and determines that the proposed Second Loan Agreement and Second Loan are necessary for the Successor

Agency to meet its fiduciary responsibilities to holders of enforceable obligations: (a) a portion of the debt service due for 2006 Tax Allocation Bonds as set forth in Item 1 on the Second ROPS, to the extent that distributions from the RPTTF to the RORF are insufficient to make the required payments; (b) arbitrage services as set forth in Item 4 on the Second ROPS; (c) Oversight Board legal counsel as set forth in Item 17 on the Second ROPS; and (d) certain Successor Agency administrative costs as set forth in Items 5 through 12 on the Second ROPS.

SECTION 4. The Oversight Board hereby approves (i) the proposed Second Loan Agreement as an enforceable obligation under the Dissolution Act, wherein the City will provide the Second Loan (defined above) to the Successor Agency for the purpose of the Successor Agency paying a portion of the debt service due for 2006 Tax Allocation Bonds as set forth in Item 1 on the Second ROPS, to the extent that distributions from the RPTTF to the RORF are insufficient to make the required payments; (b) arbitrage services as set forth in Item 4 on the Second ROPS; (c) Oversight Board legal counsel as set forth in Item 17 on the Second ROPS; and (d) certain Successor Agency administrative costs as set forth in Items 5 through 12 on the Second ROPS and (ii) the Successor Agency's repayment of the Second Loan from the City in each six (6) month period with a pledge of property taxes payable from the Redevelopment Property Tax Trust Fund, at an interest rate on such Second Loan equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund.

SECTION 5. The Oversight Board hereby authorizes the Successor Agency to execute the proposed Second Loan Agreement with the City consistent with the terms of the Second Loan Agreement and the Second Loan approved by this Resolution, including without limitation the City's advance of the Loan in the amount not to exceed \$374,669.22 for the purpose of the Successor Agency paying certain enforceable obligations listed on the Second ROPS and the Successor Agency's repayment of the Second Loan to the City in each six (6) month period with a pledge of property taxes payable from the Redevelopment Property Tax Trust Fund, at an interest rate on such Second Loan equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund.

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SECTION 6. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

**PASSED AND ADOPTED** this 23rd day of August, 2012, at a special scheduled meeting of the Oversight Board for the Successor Agency of the Solana Beach Redevelopment Agency by the following vote:

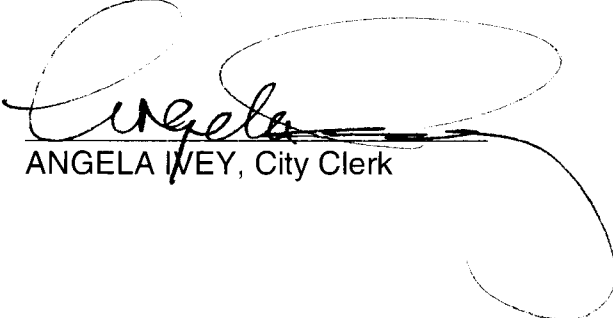
AYES: Board of Directors – Golich, Sheres, Austin, Coughlin, Deaver, Ott  
NOES: Board of Directors – None  
ABSENT: Board of Directors – Estrella  
ABSTAIN: Board of Directors – None

  
THOMAS GOLICH, Chair

APPROVED AS TO FORM:

  
KENDALL D. BERKEY, General Counsel

ATTEST:

  
ANGELA IVEY, City Clerk

## EXHIBIT A

### SECOND LOAN AGREEMENT (Second City Advance to Successor Agency)

This Second Loan Agreement (the "Second Loan Agreement") is made and entered into as of June 13, 2012, by and between the City of Solana Beach, a municipal corporation (the "City"), and the City of Solana Beach acting in its capacity as the Successor Agency to the former Solana Beach Redevelopment Agency ("Successor Agency").

#### RECITALS

**WHEREAS**, on February 1, 2012, pursuant to AB1x 26 (the "Dissolution Act"), the Solana Beach Redevelopment Agency (the "Dissolved RDA"), along with all redevelopment agencies in the State of California, was dissolved, and all assets and obligations of the Redevelopment Agency were transferred by operation of law to the Successor Agency; and

**WHEREAS**, on January 11, 2012, the City Council (the "City Council") of the City adopted a resolution accepting for the City the role of Successor Agency to the Dissolved RDA; and

**WHEREAS**, the Dissolution Act requires that the Successor Agency prepare a Recognized Obligation Payment Schedule ("ROPS") for each six-month period setting forth all enforceable obligations (as defined in the Dissolution Act) of the Successor Agency; and

**WHEREAS**, the Successor Agency prepared a ROPS for the period between January 1, 2012 and June 30, 2012 (the "First ROPS") and for the period between July 1, 2012 and December 31, 2012 (the "Second ROPS"); and

**WHEREAS**, the Dissolution Act creates an oversight board for each redevelopment agency to oversee the wind down of the redevelopment agency ("Oversight Board"); and

**WHEREAS**, on April 12, 2012, the Oversight Board for the Successor Agency approved the First ROPS and the Second ROPS; and

**WHEREAS**, the Oversight Board on April 12, 2012 by a unanimous vote further authorized the Successor Agency to enter into a "First Loan Agreement" with the City pursuant to the authority granted by Health & Safety Code Sections 34178(a) and 34180(h), wherein the City would advance funds to the Successor Agency in an amount not to exceed \$278,215 (the "First Loan") for the purpose of paying the following

obligations shown on the First ROPS: (a) a portion of the debt service and costs for the payments due in May 2012 for 2006 Tax Allocation Bonds as set forth in Items 1 through 4 on the First ROPS; and (b) certain Successor Agency administrative costs as set forth in Items 5 through 12 on the First ROPS, to enable the Successor Agency to meet its fiduciary responsibilities to holders of enforceable obligations, in particular the holders of the 2006 Tax Allocation Bonds, and for the Successor Agency to have adequate funds for administration, in that the Successor Agency had inadequate reserves to pay these obligations unless funds were advanced by the City; and

**WHEREAS**, the City and the Successor Agency entered into the First Loan Agreement on April 25, 2012; and

**WHEREAS**, the Second ROPS as approved by the Oversight Board showed that the payment of all enforceable obligations of the Successor Agency, including repayment of the First Loan, would require the allocation of \$533,745 from the Redevelopment Property Tax Trust Fund ("RPTTF"), containing all property tax increment previously allocated to the Dissolved RDA, to the Successor Agency, and the Successor Agency's administrative cost allowance would require the allocation of \$125,000 from the RPTTF to the Successor Agency, for a total allocation to the Successor Agency's Redevelopment Obligation Retirement Fund (the "RORF") of \$658,715; and

**WHEREAS**, on May 1, 2012, the Successor Agency received from the San Diego County Auditor-Controller a document entitled *Estimated RPTTF Allocations and Distributions*, which document estimated that the Successor Agency's RORF would receive only \$5,860.78 from the RPTTF on June 1, 2012 to pay enforceable obligations and administrative costs shown on the Second ROPS; and

**WHEREAS**, on June 1, 2012, the Successor Agency received from the RPTTF \$88,018.42 and not the estimated \$5,860.78; and

**WHEREAS**, to enable the Successor Agency to meet its fiduciary responsibilities to holders of enforceable obligations, in particular the owners of the 2006 Tax Allocation Bonds, and for the Successor Agency to have adequate funds for administration, the City desires to loan to the Successor Agency an amount not to exceed \$374,669.22 (the "Second Loan") for the purpose of paying the following obligations shown on the Second ROPS: (a) a portion of the debt service due for 2006 Tax Allocation Bonds as set forth in Item 1 on the Second ROPS, to the extent that distributions from the RPTTF to the RORF are insufficient to make the required payments; (b) arbitrage services as set forth in Item 4 on the Second ROPS; (c) Oversight Board legal counsel as set forth in Item 17 on the Second ROPS; and (d) certain Successor Agency administrative costs as set forth in Items 5 through 12 on the Second ROPS; and

**WHEREAS**, the City and the Successor Agency have determined that entering into this Second Loan Agreement is in the best interests of the City and the Successor Agency.

**NOW, THEREFORE,** in consideration of the premises and the mutual agreements herein contained, the parties hereto do hereby agree as follows The foregoing recitals are hereby incorporated by reference and made part of this Second Loan Agreement.

## **ARTICLE I.**

### **SECOND LOAN PROVISIONS**

**Section 1.01            Second Loan.** The City hereby agrees to lend to the Successor Agency the principal amount of Three Hundred Seventy-Four Thousand Six Hundred Sixty-Nine Dollars and Twenty Two Cents (\$374,669.22) (the "Second Loan") for the purposes set forth in Section 1.03.

**Section 1.02            Interest.**

(a) Interest. Interest on the Second Loan shall accrue as of the Effective Date, continuing until such time as the Second Loan is repaid in full, at a rate equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund, compounded annually.

(b) Default Interest. In the event of a Default, interest on the Second Loan shall begin to accrue as of the date of Default and continuing until such time as the Second Loan is repaid in full or the Default is cured, at the default rate of the lesser of eight percent (8%) per annum, compounded annually (the "Default Rate") or the highest rate permitted by law.

**Section 1.03            Use of Second Loan Funds.**

The Successor Agency shall use the Second Loan for the for the purpose of paying the following obligations shown on the Second ROPS: (a) a portion of the debt service due for 2006 Tax Allocation Bonds as set forth in Item 1 on the Second ROPS, to the extent that distributions from the RPTTF to the RORF are insufficient to make the required payments; (b) arbitrage services as set forth in Item 4 on the Second ROPS; (c) Oversight Board legal counsel as set forth in Item 17 on the Second ROPS; and (d) certain Successor Agency administrative costs as set forth in Items 5 through 12 on the Second ROPS.



**Section 1.04                      Repayment of Second Loan.**

(a)     The Second Loan is an enforceable obligation of the Successor Agency and is payable on June 1 and January 16 of each year from the RPTTF maintained by the San Diego County Auditor-Controller for the purpose of paying enforceable obligations of the Successor Agency.

(b)     The Second Loan shall be set forth in full as an enforceable obligation of the Successor Agency on the ROPS for the period from January 1, 2013 through June 30, 2013 (the "Third ROPS"). It shall be due and payable in full from the Successor Agency's RORF following the January 16, 2013 payment to the RORF by the San Diego County Auditor-Controller. However, should the Successor Agency receive insufficient funds from the RPTTF to pay all costs shown on the Third ROPS, then the amount due and payable on the Second Loan shall equal the amount deposited into the RORF less all other costs shown on the Third ROPS, and the balance of any principal and interest due on the Second Loan shall be due and payable in full on the next ROPS. All principal and interest due on the First Loan shall be repaid in full before payment of principal and interest due on the Second Loan.

(c)     The procedure described in subsection (b) of this Section shall continue to be followed for each ROPS until the principal and interest due on the Second Loan are paid in full. Any remaining principal and interest due on the Second Loan shall continue to be shown as an enforceable obligation on each ROPS until the Successor Agency has received sufficient funds to pay all principal and interest due on the Second Loan.

(d)     All Second Loan payments shall first be used to pay all accrued interest and then to reduce the principal balance.

**Section 1.05                      Optional Prepayment of the Second Loan.** The Successor Agency shall have the right to prepay the unpaid principal and interest of the Second Loan at any time.

**Section 1.06                      Books and Accounts; Financial Statements.** The Successor Agency will keep, or cause to be kept, proper books of record and accounts showing the use of the Second Loan funds, interest due on the Second Loan, Second Loan repayments, and principal and interest outstanding.

**ARTICLE II.**

**DEFAULT AND REMEDIES**

**Section 2.01                      Event of Default.** Failure by the Successor Agency to pay the principal or interest on the Second Loan when due and payable shall constitute a Default.

**Section 2.02**                    **No Waiver.** A waiver of any Default by the City shall not affect any subsequent Default or impair any rights or remedies on the subsequent default.

**Section 2.03**                    **Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

### ARTICLE III.

#### MISCELLANEOUS

**Section 3.01**                    **No Merger.** In entering into this Second Loan Agreement, the City is acting in its capacity as a municipal corporation, while the Successor Agency is acting in its capacity as the successor to the Dissolved RDA; and both the City and the Successor Agency are acting pursuant to the specific authority granted by the Oversight Board and by Health & Safety Code Sections 34178(a) and 34180(h) authorizing agreements between the City and the Successor Agency. In consequence, the parties to this Second Loan Agreement are not merged.

**Section 3.02**                    **Successor is Deemed Included in All References to Predecessor.** Whenever in this Second Loan Agreement either the Successor Agency or the City is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Second Loan Agreement contained by or on behalf of the Successor Agency or the City shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 3.03**                    **Amendment.** This Second Loan Agreement may be amended by the parties hereto but only by a written instrument signed by both parties and with the approval of the Oversight Board.

**Section 3.04**                    **Effective Date.** This Second Loan Agreement shall take effect upon approval by the Oversight Board and, following that approval, at the time and in the manner prescribed in Health & Safety Code Section 34179(h) (the "Effective Date").

**Section 3.05**                    **Severability.** If any Section, paragraph, sentence, clause or phrase of this Second Loan Agreement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Second Loan Agreement. The City and the Successor Agency hereby declare that they would have adopted this Second Loan Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the Loan irrespective of

the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Second Loan Agreement may be held illegal, invalid or unenforceable.

**IN WITNESS WHEREOF**, the City of Solana Beach and the City of Solana Beach acting as the Successor Agency to the former Solana Beach Redevelopment Agency have caused this Second Loan Agreement to be signed by their respective officers all as of the day and year first above written.

**CITY OF SOLANA BEACH, CALIFORNIA,  
a California municipal corporation ("CITY")**

Approved:

\_\_\_\_\_  
David Ott, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Johanna N. Canlas, City Attorney

**CITY OF SOLANA BEACH, CALIFORNIA,  
a California municipal corporation  
acting as the Successor Agency to the former Solana Beach  
Redevelopment Agency ("SUCCESSOR AGENCY")**

Approved:

\_\_\_\_\_  
David Ott, City Manager and Designated Contact Official

APPROVED AS TO FORM:

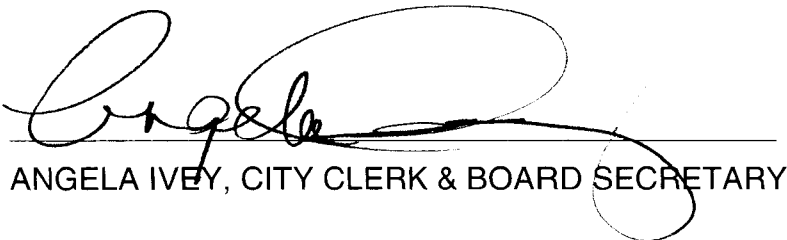
\_\_\_\_\_  
Johanna N. Canlas, City Attorney



## CERTIFICATION

STATE OF CALIFORNIA)  
COUNTY OF SAN DIEGO) SS.  
CITY OF SOLANA BEACH)

I, ANGELA IVEY, City Clerk of the City of Solana Beach, California, and Secretary of the Successor Agency for the Solana Beach Redevelopment Agency, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of **Resolution OBSA-008** *approving the second loan agreement between the City and the Successor Agency to pay certain enforceable obligations* as duly passed and adopted at a Special Meeting of the Oversight Board of the Successor Agency for the Solana Beach Redevelopment Agency held on the 23<sup>rd</sup> day of August 2012 and the original is on file in the City Clerk's Office.

  
ANGELA IVEY, CITY CLERK & BOARD SECRETARY

Date of this Certification: 8-24-2012