

OVERSIGHT BOARD RESOLUTION NO. OB-2016-14

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE TAFT COMMUNITY DEVELOPMENT AGENCY APPROVING REINSTATEMENT AND REPAYMENT OF CERTAIN PRIOR LOANS MADE TO THE FORMER AGENCY BY THE CITY OF TAFT; FINDING THE PRIOR LOANS WERE FOR LEGITIMATE REDEVELOPMENT PURPOSES PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.4(b); AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, the former Taft Community Development Agency (the "Agency") was established as a redevelopment agency that was previously organized and existing under the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.* (the "CRL"), and previously authorized to transact business and exercise powers of a redevelopment agency pursuant to action of the City Council of the City of Taft (the "City"); and

WHEREAS, Assembly Bill 1x 26, chaptered and effective on June 28, 2011 ("AB1x 26"), added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and winding down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 ("AB 1484"), chaptered and effective on June 27, 2012 (as further amended from time to time, the "Dissolution Act"); and

WHEREAS, as of February 1, 2012 the Agency was dissolved pursuant to the Dissolution Act and the City Council serves as the governing board of the Successor Agency to the Taft Community Development Agency (the "Successor Agency"); and

WHEREAS, the Successor Agency administers the enforceable obligations of the former Agency and otherwise unwinds the Agency's affairs, all subject to the review and approval by a seven-member oversight board ("Oversight Board"); and

WHEREAS, AB 1484 added Health and Safety Code Section 34191.4 to the Dissolution Act, which allows reinstatement of loans previously made by the City to Agency, under certain conditions; and

WHEREAS, pursuant to Health and Safety Code Section 34191.4(b), loan agreements entered into between the Agency and the City may be considered enforceable obligations; provided that the following conditions are satisfied: (1) the Department of Finance ("DOF") must have issued a Finding of Completion to the Successor Agency; (2) the Oversight Board must find that the loans were made for legitimate redevelopment purposes and must approve repayment of the loans as enforceable obligations in the Recognized Obligation Payment Schedule ("ROPS"); and (3) the Oversight Board's action is subject to review and approval by the DOF; and

WHEREAS, the DOF issued the Finding of Completion to the Successor Agency on September 12, 2014; and

WHEREAS, prior to the dissolution of the Agency, the City loaned money to the Agency from time to time (collectively, the "Prior Loan"); and

WHEREAS, the Prior Loan was disbursed over the course of several years and was structured to come due every June 30; if not paid, then principal and accrued interest owed by the former Agency to the City were included in a new loan for the next fiscal year, which would become due and payable the following June 30; and

WHEREAS, as of February 1, 2012, the date the Agency was dissolved, the Agency owed the City the Prior Loan in the principal amount of \$2,457,797.91 (the "Loan Amount"); and

WHEREAS, proceeds of the Prior Loan were disbursed to the Agency over the course of six years and were used by the Agency to purchase real property for redevelopment projects, to fund required Supplemental Educational Revenue Augmentation Fund ("SERAF") payments, and to pay certain operating costs of the former Agency; and

WHEREAS, the City and Successor Agency desire to reinstate the Prior Loan previously made by the City to the Agency by entering into that certain *Loan Agreement for Reinstated City/Agency Loan Pursuant to Health and Safety Code Section 34191.4* in substantially the form attached hereto as Exhibit A and incorporated herein (the "Loan Agreement"); and

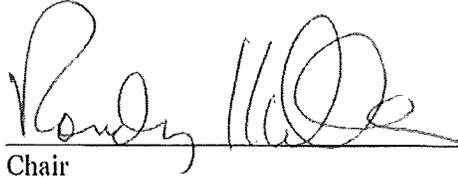
WHEREAS, after reinstatement of the Prior Loan pursuant to Health and Safety Code Section 34191.4(b), AB 1484 restricts the repayment of the Prior Loan in accordance with the formula set forth in Health and Safety Code Section 34191.4(b).

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE TAFT COMMUNITY DEVELOPMENT AGENCY:

- Section 1. The foregoing recitals are true and correct and constitute a substantive part of this Resolution.
- Section 2. The Oversight Board hereby finds and determines, based on all the evidence in the record before it, that the Prior Loan was validly entered into in accordance with the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.*, including without limitation Health and Safety Code Sections 33132 and 33220, for valid redevelopment purposes, and that the Prior Loan was therefore made for legitimate redevelopment purposes. The foregoing finding is based on evidence that the proceeds of the Prior Loan were used by the Agency to purchase real property for redevelopment projects pursuant to the California Community Redevelopment Law and the Redevelopment Plan for the Taft Redevelopment Project No. 1 (the "Redevelopment Plan"). Other proceeds of the Prior Loan were used by the Agency to make SERAF payments, as required by the CRL. Finally, certain proceeds of the Prior Loan were used to pay operating costs of the former Agency, without which the Agency could not have continued to pursue its redevelopment activities under the Redevelopment Plan and the CRL.
- Section 3. The Oversight Board further finds and determines, based on all the evidence in the record before it, that upon approval thereof by the Oversight Board and the DOF, the Loan Agreement shall constitute an enforceable obligation within the meaning of Section 34171(d) of the Dissolution Act.

- Section 4. The Oversight Board hereby finds and determines, based on all the evidence in the record before it, that the Prior Loan, as reinstated pursuant to the Loan Agreement, constitutes an enforceable obligation eligible for payment through the ROPS from Redevelopment Property Tax Trust Fund ("RPTTF") moneys, in accordance with the formula set forth in Health and Safety Code Section 34191.4(b).
- Section 5. The Oversight Board hereby approves the reinstatement of the Prior Loan pursuant to the Loan Agreement, including the recalculation of interest on the Prior Loan at a simple 3% interest rate. The Successor Agency Executive Director is hereby authorized and directed to create and update a defined payment schedule from time to time, as appropriate, to reflect the actual amount of RPTTF moneys available for payment to the taxing entities (and therefore available for payment of amounts due under the Loan Agreement) in each fiscal year following reinstatement of the Prior Loan pursuant to this Agreement. Such defined payment schedule shall reflect the recalculation of interest on the unpaid balance of the Prior Loan from the date of origination of the Prior Loan and thereafter as described in the Loan Agreement.
- Section 6. The Oversight Board hereby directs the Successor Agency to include repayment of the Prior Loan on the annual ROPS covering the period from July 1, 2016 through June 30, 2017 and to take all actions necessary and appropriate to accomplish the repayment of the Prior Loan to the City, including without limitation including the Prior Loan and the Loan Agreement on each ROPS until the Loan Amount, including interest, is repaid to the City in full (including all required deposits into the Low and Moderate Income Housing Asset Fund held by the housing successor, as provided by Health and Safety Code Section 34191.4(b)(3)(C)).
- Section 7. All unpaid amounts owing under the Loan Agreement shall continue to accrue interest and shall either be paid from excess available RPTTF moneys in future ROPS periods or the defined payment schedule for the Prior Loan shall be extended to provide for payment of such unpaid amounts, in the option of the City. In such event, the defined payment schedule shall be modified to reflect the method of repayment of such unpaid amounts.
- Section 8. The Chair and Secretary of the Oversight Board shall sign the passage and adoption of this Resolution and thereupon the same shall take effect and be in force.
- Section 9. The Successor Agency Executive Director is hereby directed to transmit this Resolution and the accompanying staff report and all exhibits thereto, each of which is incorporated herein, to the DOF pursuant to Health and Safety Code Section 34179(h).

APPROVED AND ADOPTED this 28th day of January, 2016.



Chair
Oversight Board to the Successor Agency to the
Taft Community Development Agency

ATTEST:



Secretary
Oversight Board to the Successor Agency to the
Taft Community Development Agency

EXHIBIT A

**LOAN AGREEMENT FOR REINSTATED CITY/AGENCY LOAN
PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.4**

[Attached on following pages]

**LOAN AGREEMENT
FOR REINSTATED CITY/AGENCY LOAN PURSUANT TO
HEALTH AND SAFETY CODE SECTION 34191.4**

This **LOAN AGREEMENT FOR REINSTATED CITY/AGENCY LOAN PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.4** ("Agreement") is dated as of January 1, 2016 for purposes of identification ("Date of Agreement") and entered into between the **CITY OF TAFT**, a California municipal corporation, ("City") and the **SUCCESSOR AGENCY TO THE TAFT COMMUNITY DEVELOPMENT AGENCY**, a public body corporate and politic pursuant to Parts 1.8 and 1.85 of Division 24 of the California Health & Safety Code ("Successor Agency").

RECITALS

- A.** The City is a municipal corporation organized and operating under the laws of the State of California.
- B.** The Successor Agency is a public body corporate and politic, organized and operating under Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, and the successor the former Taft Community Development Agency ("former Agency") that was previously a community redevelopment agency organized and existing pursuant to the Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.*
- C.** Assembly Bill x1 26 ("AB x1 26") added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code and which laws were modified, in part, and determined constitutional by the California Supreme Court in the petition *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("*Matosantos Decision*"), which laws and court opinion caused the dissolution of all redevelopment agencies and winding down of the affairs of former redevelopment agencies; thereafter, such laws were amended further by Assembly Bill 1484 and other subsequent legislation (together AB x1 26, the *Matosantos Decision*, and such other legislation are referred to as the "Dissolution Laws"). All statutory references herein are to the Health and Safety Code unless otherwise stated.
- D.** As of February 1, 2012 the former Agency was dissolved pursuant to the Dissolution Laws and as a separate public entity, corporate and politic the Successor Agency administers the enforceable obligations of the former Agency and otherwise unwinds the former Agency's affairs, all subject to the review and approval by a seven-member oversight board ("Oversight Board").
- E.** Section 34177(o) requires the Successor Agency to prepare a Recognized Obligation Payment Schedule ("ROPS") for each annual period (July 1 to June 30) that lists its enforceable obligations and requests Redevelopment Property Tax Trust Fund ("RPTTF") moneys to be distributed to the Successor Agency each January 2 and June 1 to pay such enforceable obligations.
- F.** Section 34191.4(b) authorizes the City and Successor Agency to re-establish and reinstate prior loan agreement(s) between the City and the former Agency, including loans the proceeds of which were used to purchase real property.
- G.** The Successor Agency received its Finding of Completion from the State Department of Finance ("DOF") by letter dated September 12, 2014.

H. Prior to the dissolution of the former Agency, the City loaned money to the former Agency from time to time (collectively, the "Prior Loan"). The Prior Loan was disbursed over the course of several years and was structured to come due every June 30; if not paid, then principal and accrued interest owed by the former Agency to the City were included in a new loan for the next fiscal year, which would become due and payable the following June 30.

I. As of February 1, 2012, the date the former Agency was dissolved, the former Agency owed the City the Prior Loan in the principal amount of \$2,457,797.91 (the "Loan Amount"). The Loan Amount reflects outstanding principal only and does not include interest accrued prior to February 1, 2012. The Loan Amount was disbursed by the City to the Agency over the course of six years. Proceeds of the Prior Loan were used by the Agency to purchase real property for redevelopment projects, to fund required Supplemental Educational Revenue Augmentation Fund payments, and to pay certain operating costs of the former Agency.

J. This Agreement sets forth the terms of the reinstated loan in the principal amount of the Loan Amount, with interest accruing on such principal at 3% simple interest pursuant to Section 34191.4(b), provides for repayments to the City in accordance with the defined repayment schedule set forth in Health and Safety Code Section 34191.4(b), which shall be developed and updated from time to time by the Successor agency Executive Director, and establishes other terms as set forth hereinafter.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the City and Successor Agency agree as follows:

Section 1. Recitals. The City and Successor Agency represent and warrant to each other that each and all of the respective recitals are true and correct, are a material part hereof, and are hereby incorporated into this Agreement by reference as if fully set forth and such Recitals evidence the intent of the parties regarding the Prior Loan.

Section 2. Loan Amount. The Prior Loan is hereby reinstated and affirmed; the City has loaned to the Successor Agency the principal sum of the Loan Amount.

Section 3. Interest. The Loan Amount shall accrue simple interest at 3%, recalculated from the date of origination of the Prior Loan.

Section 4. Payment. The Successor Agency agrees to repay the principal and all accrued interest bi-annually corresponding to the time that is within ten (10) days of the date that the Successor Agency receives monies allocated from the RPTTF for this Agreement and the reinstated Prior Loan as an enforceable obligation as listed on each annual Recognized Obligation Payment Schedule, until repaid in full with interest pursuant to the provisions of the Dissolution Laws.

Section 5. Loan for Legitimate Redevelopment Purpose; Submittal of Agreement to Oversight Board and DOF. The Successor Agency shall submit this Agreement to the Oversight Board for its review, approval and determination that (a) the Prior Loan monies advanced by the City to the Successor Agency were loaned for a legitimate redevelopment purpose, and (b) this Agreement is an enforceable obligation. Thereafter, if approved by the Oversight Board, the reinstated Prior Loan and this Agreement shall be submitted to the DOF for its review and approval pursuant to the Dissolution Laws.

Section 6. Successor Agency to List Agreement as an Enforceable Obligation on Each ROPS until the Prior Loan is Repaid. The Successor Agency agrees to list this Agreement as an enforceable obligation on each annual ROPS until the Prior Loan and all accrued interest is repaid in full pursuant to the provisions of the Dissolution Laws, with the amount of that listed enforceable obligation to be the Loan Amount plus accrued interest (or such lesser amount as remains outstanding).

Section 7. Term. This Agreement shall be in full force and effect from the Date of Agreement until such time as the entire Loan Amount plus accrued interest has been repaid in full.

Section 8. Remedies. In the event of a default, the parties hereto shall be entitled to pursue any and all remedies available at law or equity under California law for purposes of enforcing the terms and conditions of this Agreement.

Section 9. General Provisions

9.1 *Successors and Assigns.* The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties.

9.2 *Partial Invalidity.* If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, then the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

9.3 *Severability.* If any term, provision, covenant or condition of this Agreement is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such judicial determination.

9.4 *Governing Law.* This Agreement and instruments given pursuant hereto, if any, shall be construed in accordance with and be governed by the laws of the State of California.

9.5 *Counterparts.* This Agreement may be executed in counterparts, which when taken together, shall constitute a single signed original as though all Parties had executed the same page.

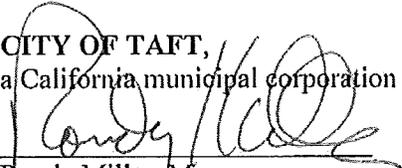
9.6 *Waivers and Amendments.* All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the authorized representatives of the each of the parties.

9.7 *Entire Agreement.* This Agreement constitutes the entire agreement by and between the parties with respect to the subject matter of this Agreement, and may be amended only in writing.

[Signatures appear on next page]

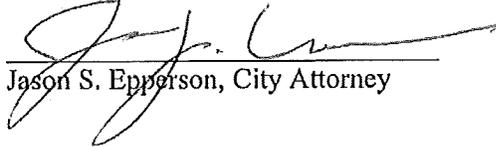
[Signatures to Loan Agreement appear below]

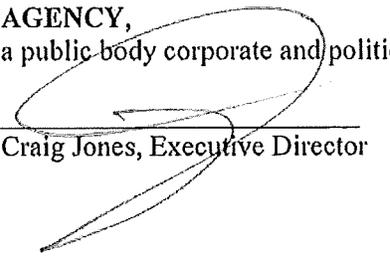
IN WITNESS WHEREOF, said parties have caused this *Loan Agreement For Reinstated City/Agency Loan Pursuant to Health and Safety Code Section 34191.4* to be executed by their officers duly authorized on the Date of Agreement.

CITY OF TAFT,
a California municipal corporation

Randy Miller, Mayor

ATTEST:

Yvette Mayfield, City Clerk

APPROVED AS TO FORM:
PRENTICE LONG & EPPERSON, PC

Jason S. Epperson, City Attorney

SUCCESSOR AGENCY TO THE TAFT
COMMUNITY DEVELOPMENT
AGENCY,
a public body corporate and politic

Craig Jones, Executive Director

ATTEST:

Yvette Mayfield, Secretary

APPROVED AS TO FORM:
STRADLING YOCCA CARLSON & RAUTH

Vanessa S. Locklin, Special Counsel

[Signatures to Loan Agreement appear below]

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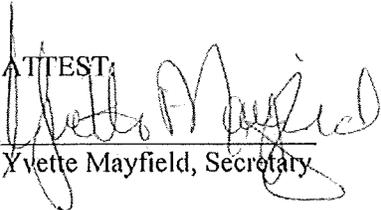
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Vanessa S. Locklin, Special Counsel