

RESOLUTION 2019/36

RESOLUTION OF THE COUNTYWIDE OVERSIGHT BOARD

FOR THE COUNTY OF CONTRA COSTA

A RESOLUTION OF THE COUNTYWIDE OVERSIGHT BOARD

CONTRA COSTA COUNTY

APPROVING REINSTATEMENT AND REPAYMENT OF CERTAIN PRIOR LOANS MADE TO THE FORMER LAFAYETTE REDEVELOPMENT AGENCY

BY THE CITY OF LAFAYETTE;

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 Lafayette Redevelopment 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 Lafayette (the "City"); and

WHEREAS, on February 1, 2012 the Agency was dissolved pursuant to Assembly Bill 1X26 (Stats. 2011, 1st Ex. Sess., Ch. 5) ("AB 26"), and its rights, powers, duties and obligations were transferred to a "successor agency" (as defined by CRL Section 34171 U) and Section 34173); and

WHEREAS, the City Council elected to act as the Agency's successor agency ("Successor Agency") under CRL Section 34173, and, as such, is charged with administering the retirement of the former Agency's debts and other obligations; 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 countywide 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 May 15, 2013, and

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

WHEREAS, the Prior Loans were disbursed over the course of several years and were 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 Loans in the principal amounts (the "Loan Amount") as follows:

1. Parking Fund Loan - \$540,000
2. General Fund Loans - \$3,343,612

WHEREAS, proceeds of the Prior Loans were disbursed to the Agency over the course of several years and were used by the Agency to purchase real property for redevelopment projects, fund capital projects in the Redevelopment Area and to pay certain operating costs of the former Agency; and

WHEREAS, the City and Successor Agency desire to reinstate the Prior Loans previously made by the City to the Agency by entering into that certain *Loan Agreements for Reinstated City/Agency Loans 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 Loans pursuant to Health and Safety Code Section 34191.4(b), AB 1484 restricts the repayment of the Prior Loans in accordance with the formula set forth in Health and Safety Code Section 34191.4(b).

NOW, THEREFORE, the Countywide Oversight Board for the County of Contra Costa does hereby resolve as follows:

Section 1. The Oversight Board hereby finds and determines, based on all the evidence in the record before it, that the Prior Loans were 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 Loans were therefore made for legitimate redevelopment purposes. The foregoing finding is based on evidence that the proceeds of the Prior Loans were used by the Agency to purchase real property for redevelopment projects pursuant to the California Community Redevelopment Law. Other proceeds of the Prior Loan were used by the Agency to complete capital projects within the Redevelopment Area. 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 2. 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 Agreements shall constitute enforceable obligations 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 Loans, as reinstated pursuant to the Loan Agreements, constitute 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 Loans pursuant to the Loan Agreement, including the recalculation of interest on the Prior Loans at a 3% interest rate from the date of origination on a quarterly basis. 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 Agreements) in each fiscal year following reinstatement of the Prior Loans pursuant to this Agreement. Such defined payment schedule shall reflect the recalculation of interest on the unpaid balance of the Prior Loans from the date of origination of the Prior Loans and thereafter as described in the Loan Agreements.

Section 6. The Oversight Board hereby directs the Successor Agency to include repayment of the Prior Loans on the annual ROPS covering the period from July 1, 2018 through June 30, 2019 and to take all actions necessary and appropriate to accomplish the repayment of the Prior Loans to the City, including without limitation including the Prior Loans and the Loan Agreements 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 Loans shall be extended to provide for payment of such unpaid amounts, in the option of the City. In such event, the defined payment schedules 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 34 179(h).

PASSED AND ADOPTED this 28th of January, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Oversight Board Secretary

Attachments

Lafayette-Loans Staff Report
