

**BEFORE THE CONSOLIDATED OVERSIGHT BOARD
SUCCESSOR AGENCY FOR THE CITY OF SAND CITY
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 2021-09

**RESOLUTION OF THE CONSOLIDATED OVERSIGHT BOARD
SUCCESSOR AGENCY FOR THE CITY OF SAND CITY, COUNTY OF MONTEREY,
APPROVING REINSTATEMENT OF A LOAN AGREEMENT BETWEEN THE CITY
OF SAND CITY AND THE FORMER SAND CITY REDEVELOPMENT AGENCY,
FINDING THE LOAN WAS MADE FOR LEGITIMATE REDEVELOPMENT
PURPOSES AND APPROVING A SCHEDULE FOR REPAYMENT BY THE
SUCCESSOR AGENCY OF THE AMOUNT OF THE LOAN USED TO FUND
PAYMENTS UNDER THE SEASIDE AGREEMENT**

WHEREAS, the Sand City Redevelopment Agency (“**Agency**”) was established as a redevelopment agency organized and existing under the California Community Redevelopment Law, Health & Safety Code Section 33000, et seq. (“**CRL**”) and authorized to transact business and exercise powers of a redevelopment agency pursuant to Ordinance No. 86-12 adopted by the City Council of the City of Sand City (“**City**”) on October 16, 1986; and

WHEREAS, the Redevelopment Plan (“**Redevelopment Plan**”) for the Sand City Redevelopment Project Area (“**Project Area**”) was approved and adopted by the City Council on July 20, 1987 by Ordinance No. 87-6; and

WHEREAS, on May 18, 1989, the Agency entered into an agreement with the City of Seaside to mitigate and provide a funding mechanism for the mitigation of the impacts on streets located within the City of Seaside resulting from the Agency’s redevelopment activities within the Project Area pursuant to and in furtherance of the Redevelopment Plan (the “**Seaside Agreement**”); and

WHEREAS, on May 31, 1989, the Agency entered into an Owner Participation Agreement with Costco Wholesale Corporation pursuant to which the Agency agreed to reimburse Costco for certain property acquisition costs associated with the Costco project in order to facilitate and expedite the financing and construction of public and infrastructure improvements and to stimulate redevelopment and revitalization within the Project Area pursuant to and in furtherance of the Redevelopment Plan (the “**Costco Agreement**”); and

WHEREAS, on July 18, 1989, the Agency and the City entered into that certain “Agreement Between the City of Sand City and the Redevelopment Agency of the City of Sand City Concerning Certain Sales and Use Taxes”, a copy of which is attached hereto marked Exhibit “A” and by this reference incorporated herein (the “**Loan Agreement**”); and

WHEREAS, under the terms of the Loan Agreement the City agreed to loan sufficient funds to the Agency to enable the Agency to meet its obligations to make payments under the Seaside Agreement (the “**Seaside Loan**”) and the Costco Agreement (the “**Costco Loan**”) and the Agency agreed to repay such loans from property tax increment funds received by the Agency; and

WHEREAS, on February 1, 2012 the Agency was dissolved pursuant to Assembly Bill 1X 26 (the “**Dissolution Act**”) and its rights, powers, duties and obligations were transferred to a successor agency; and

WHEREAS, the City Council of the City elected to act as the former Agency’s successor agency (“**Successor Agency**”) under Section 34173 of the Dissolution Act, and, as such, is charged with implementing enforceable obligations and winding down the affairs of the former Agency by administering the retirement of the former Agency’s debts and other obligations; and

WHEREAS, Assembly Bill 1484 added Health & Safety Code Section 34191.4(b) to the Dissolution Act which allows reinstatement of loans previously made by the City to the former Agency as enforceable obligations payable from Real Property Tax Trust Funds over time subject to certain limitations and provided 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 August 1, 2013; and

WHEREAS, attached hereto marked Exhibit “B” and by this reference incorporated herein is a true and correct accounting of all funds the former Agency borrowed from the City under the Loan Agreement for the Seaside Loan, all payments made by the former Agency from available tax increment prior to dissolution to reduce the outstanding principal amount and recalculation of the total amount due from the Successor Agency to the City for the Seaside Loan in accordance with Health & Safety Code Section 34191.4(b)(3) which amount as of December 31, 2021 is \$6,308,551.99; and

WHEREAS, on January 16, 2018, the Successor Agency adopted Resolution No. SA 18-02 approving a repayment schedule for the Seaside Loan which Resolution was repealed by the adoption of Resolution No. SA 21-02 on September 7, 2021 approving a revised and recalculated Loan Repayment Schedule (Seaside Monetary Loan) attached hereto marked Exhibit “C” and by this reference incorporated herein.

NOW, THEREFORE, BE IT RESOLVED by the Consolidated Oversight Board that:

1. The Consolidated Oversight Board hereby finds and determines, based on all of the evidence presented, that the Loan Agreement was entered into and that the funds borrowed by the former Agency from the City thereunder were for legitimate redevelopment purposes in that such funds were used to satisfy the former Agency's obligations under the Seaside Agreement and the Costco Agreement which agreements were entered into to effectuate the Redevelopment Plan and mitigate the impacts of the redevelopment activities in the Project Area on the City of Seaside in accordance with the CRL.

2. The Consolidated Oversight Board further finds and determines, based on all of the evidence presented, that upon approval by the Consolidated Oversight Board and the DOF, the Loan Agreement shall constitute enforceable obligations within the meaning of Section 34171(d) of the Dissolution Act.

3. The Consolidated Oversight Board further finds and determines, based on all of the evidence presented, that the Seaside Loan as reinstated pursuant to the Loan Agreement constitutes an enforceable obligation eligible for payment through the ROPS from Real Property Tax Trust Funds ("**RPTTF**") in accordance with the formula set forth in Health & Safety Code Section 34191.4(b) providing for the recalculation of interest at a 3% simple interest rate from the date of origination on a quarterly basis.

4. The Consolidated Oversight Board approves the reinstatement of the Seaside Loan pursuant of the Loan Agreement and authorizes and directs the Successor Agency to take all actions necessary under the Dissolution Act to include repayment of the Seaside Loan on the ROPS to meets its obligation to repay the City the sum of \$6,308,551.99 (as of December 31, 2021), together with simple interest at the rate of 3% per annum, recalculated quarterly, on any outstanding balance of the Seaside Loan from its RPTTF until repaid in full in accordance with the Loan Repayment Schedule (Seaside Monetary Loan) attached hereto marked Exhibit "C" and by this reference incorporated herein.

5. To the extent that the amount of RPTTF available for repayment in any given year is insufficient to make the full payment shown on Exhibit "C", the scheduled payment amount shall be reduced accordingly and the repayment schedule for subsequent years will then be adjusted accordingly to provide for repayment of the outstanding balance of the Seaside Loan. To the extent that the amount of RPTTF available for repayment in any given year exceeds the amount of the scheduled payment, the payment amount shall be increased up to the maximum payment of RPTTF available for the repayment that year, and the repayment scheduled for subsequent years will then be adjusted accordingly.

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

PASSED AND ADOPTED this 16th day of September, 2021 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED:

Chairperson, Consolidated Oversight
Board County of Monterey

ATTEST:

By: _____
Clerk of the Consolidated Oversight
Board County of Monterey