

RESOLUTION NO. 2271

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHAFTER SERVING AS THE SUCCESSOR AGENCY TO THE DISSOLVED SHAFTER COMMUNITY DEVELOPMENT AGENCY, APPROVING A RATIFICATION AND AMENDMENT TO A LOAN AGREEMENT BETWEEN THE CITY OF SHAFTER AND THE DISSOLVED SHAFTER COMMUNITY DEVELOPMENT AGENCY

WHEREAS, pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), the City Council of City activated the Shafter Community Development Agency (the "Redevelopment Agency") on March 14, 1985 and subsequently adopted the Redevelopment Plans for the Shafter Community Development Project Area I and Project Area II (the "Redevelopment Plans"); and

WHEREAS, the City and Redevelopment Agency entered into a SERAF and Operating Expenses Loan Agreement, dated January 18, 2011 (the "Loan Agreement"), whereby the City and the Redevelopment Agency recognized that the Redevelopment Agency had insufficient funds to make the 2009-10 and 2010-11 Supplemental Educational Revenue Fund ("SERAF") payments, constantly operated with an annual operating deficit, and had borrowed funds from the City to make the ERAF payments and provide for ongoing operational assistance. The Loan Agreement formalized a loan from the City to the Redevelopment Agency up to \$2,500,000 for these past and future borrowings, in order to assist the Redevelopment Agency to carry out its functions under the Community Redevelopment Law and to assist with implementation of the Redevelopment Plan; and

WHEREAS, the Loan Agreement further provides for the Redevelopment Agency to reimburse the City for actions undertaken and costs and expenses incurred by the City for and on behalf of the Redevelopment Agency; and

WHEREAS, Assembly Bill 1X 26 ("AB 26"), enacted as part of the 2011-2012 State of California budget bill, and as modified by the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("Legal Action"), dissolved and set out procedures for the wind-down of all redevelopment agencies throughout the State effective February 1, 2012, and in June 2012, the California Legislature adopted Assembly Bill 1484 ("AB 1484," and collectively with AB 26, the "Dissolution Act") further modifying some of the procedures set forth in AB 26, and adding certain other procedures and requirements for the dissolution and wind-down of redevelopment agencies; and

WHEREAS, the Successor Agency is the successor entity to the former Redevelopment Agency and, pursuant to the Dissolution Act, is responsible for the wind-down of the former Redevelopment Agency, including without limitation the performance and repayment of all enforceable obligations of the former Redevelopment Agency; and

WHEREAS, Health and Safety Code Section 34171(d)(2), as modified by AB 1484, provides, with a few exceptions, that "enforceable obligation" does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the

redevelopment agency and the former redevelopment agency; and

WHEREAS, Health and Safety Code Section 34179.7, added by AB 1484, provides that upon completion of certain requirements and payment of certain amounts as required by Sections 34179.6 and 34183.5, the Department of Finance (“DOF”) shall issue, within five business days, a finding of completion of the requirements of Section 34179.6 to the successor agency; and

WHEREAS, Health and Safety Code Section 34191.4, also added by AB 1484, provides in part that, following issuance of a finding of completion by DOF, and upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city, county or city and county that created the redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes; and

WHEREAS, in addition to establishing when a loan agreement will be deemed to be an enforceable obligation, Section 34191.4 further establishes certain restrictions and limitations on, among other things, the calculation of interest on the remaining principal amount of the loan, the amounts that can be repaid from time to time under the loan agreement, and requires that twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to a Low and Moderate Income Housing Asset Fund; and

WHEREAS, the City and Successor Agency have prepared a Ratification and Amendment to the Loan Agreement (“Amendment”) in order to ratify the existence and validity of the Loan Agreement, and to establish their understanding and agreement as to the limitations and restrictions that will apply to the repayment to the City of all amounts due and owing the City by the former Redevelopment Agency under the Loan Agreement pursuant to the Dissolution Act;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHAFTER, SERVING AS THE SUCCESSOR AGENCY TO THE DISSOLVED SHAFTER COMMUNITY DEVELOPMENT AGENCY, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. CEQA Compliance. The approval of the Amendment through this Resolution does not commit the Successor Agency to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act. The City Clerk is authorized and directed to file a Notice of Exemption with the appropriate official of the County of Kern, California, within five (5) days following the date of adoption of this Resolution.

Section 3. Approval of Amendment. The Successor Agency hereby approves the Ratification and Amendment to Loan Agreement between the City of Shafter and the dissolved Shafter Community Development Agency, in substantially the form currently on file with the City Clerk.

Section 4. Transmittal of Loan Agreement to Oversight Board. The City Manager and Administrative Services Director are hereby authorized and directed to take any action necessary to carry out the purposes of this Resolution, including without limitation, cooperating with the City of Shafter to provide any documentation and evidence to the Oversight Board as necessary to obtain from the Oversight Board approval of the Loan Agreement, together with a finding that the loan of funds by the City to the former Redevelopment Agency under the Loan Agreement was for legitimate redevelopment purposes.

Section 5. Effectiveness. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED at a regular meeting this 7th day of May, 2013.



Jon Johnston, Chairman

ATTEST:



Carol Chavolla, Deputy Secretary

EXHIBIT A

RATIFICATION AND AMENDMENT TO LOAN AGREEMENT
BETWEEN THE CITY OF SHAFTER AND THE
DISSOLVED SHAFTER COMMUNITY DEVELOPMENT AGENCY

[Attached behind this page]

**RATIFICATION AND AMENDMENT TO LOAN AGREEMENT
BETWEEN THE CITY OF SHAFTER AND THE
DISSOLVED SHAFTER COMMUNITY DEVELOPMENT AGENCY**

THIS RATIFICATION AND AMENDMENT TO LOAN AGREEMENT (this "Amendment") is entered into this 7th day of May, 2013, by and between the CITY OF SHAFTER, a municipal corporation (the "City"), and the SUCCESSOR AGENCY TO THE DISSOLVED SHAFTER COMMUNITY DEVELOPMENT AGENCY, a public body, corporate and politic (the "Successor Agency").

RECITALS

The City and the Successor Agency (individually, a "Party" and collectively, the "Parties") enter into this Amendment with reference to the following facts and circumstances:

A. Pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), the City Council of City activated the Shafter Community Development Agency (the "Redevelopment Agency") on March 14, 1985 and subsequently adopted the Redevelopment Plans for the Shafter Community Development Project Area I and Project Area II (the "Redevelopment Plans").

B. The City and Redevelopment Agency entered into a SERAF and Operating Expenses Loan Agreement, dated January 18, 2011 (the "Loan Agreement"), whereby the City and the Redevelopment Agency recognized that the Redevelopment Agency had insufficient funds to make the 2009-10 and 2010-11 Supplemental Educational Revenue Fund ("SERAF") payments, constantly operated with an annual operating deficit, and had borrowed funds from the City to make the ERAF payments and provide for ongoing operational assistance. The Loan Agreement formalized a loan from the City to the Redevelopment Agency up to \$2,500,000 for these past and future borrowings, in order to assist the Redevelopment Agency to carry out its functions under the Community Redevelopment Law and to assist with implementation of the Redevelopment Plan. The Loan Agreement further provides for the Redevelopment Agency to reimburse the City for actions undertaken and costs and expenses incurred by the City for and on behalf of the Redevelopment Agency.

C. Assembly Bill 1X 26 ("AB 26"), enacted as part of the 2011-2012 State of California budget bill, and as modified by the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("Legal Action"), dissolved and set out procedures for the wind-down of all redevelopment agencies throughout the State effective February 1, 2012. In June 2012, the California Legislature adopted Assembly Bill 1484 ("AB 1484," and collectively with AB 26, the "Dissolution Act") further modifying some of the procedures set forth in AB 26, and adding certain other procedures and requirements for the dissolution and wind-down of redevelopment agencies.

D. The Successor Agency is the successor entity to the former Redevelopment Agency and, pursuant to the Dissolution Act, is responsible for the wind-down of the former Redevelopment Agency, including without limitation the performance and repayment of all

enforceable obligations of the former Redevelopment Agency.

E. Health and Safety Code Section 34171(d)(2), as modified by AB 1484, provides, with a few exceptions, that “enforceable obligation” does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency.

F. Health and Safety Code Section 34179.7, added by AB 1484, provides that upon completion of certain requirements and payment of certain amounts as required by Sections 34179.6 and 34183.5, the Department of Finance (“DOF”) shall issue, within five business days, a finding of completion of the requirements of Section 34179.6 to the successor agency. Health and Safety Code Section 34191.4, also added by AB 1484, provides in part that, following issuance of a finding of completion by DOF, and upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city, county or city and county that created the redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes.

G. In addition to establishing when a loan agreement will be deemed to be an enforceable obligation, Section 34191.4 further establishes certain restrictions and limitations on, among other things, the calculation of interest on the remaining principal amount of the loan, the amounts that can be repaid from time to time under the loan agreement, and requires that twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to a Low and Moderate Income Housing Asset Fund.

H. The parties desire to enter into this Amendment in order to ratify the existence and validity of the Loan Agreement, and to establish their understanding and agreement as to the limitations and restrictions that will apply to the repayment to the City of all amounts due and owing the City by the former Redevelopment Agency under the Loan Agreement pursuant to the Dissolution Act.

AMENDMENT

NOW, THEREFORE, for good and valuable consideration, including the mutual promises and covenants contained herein, the Parties mutually agree as follows:

1. Purpose. The purpose of this Amendment is (a) to ratify the existence and validity of the Loan Agreement, and (b) to establish the understanding and agreement of the parties as to the limitations and restrictions that will apply to the repayment to the City of all amounts due and owing the City by the former Redevelopment Agency under the Loan Agreement pursuant to the Dissolution Act.

2. Loan Amount. The outstanding amount owed to the City under the Loan Agreement, as of February 1, 2012 (the date of dissolution of the former Redevelopment Agency), is \$1,344,820 including \$1,275,506 of principal and \$69,314 of accrued interest recalculated from the beginning of the loan at the current LAIF rate pursuant to the Dissolution Act.

3. Loan was for Legitimate Redevelopment Purposes. The parties acknowledge and agree that the amounts due to the City under the Loan Agreement reflect:

a. Amounts due and owing to the City to reimburse the City for costs incurred by the City to provide staff assistance, supplies, technical services and other services and facilities to the Redevelopment Agency during the redevelopment plan adoption process, and in implementing the Redevelopment Plan following its adoption. Health and Safety Code Section 33127 provides a redevelopment agency with the power to obtain, hire, purchase or rent office space, equipment, supplies, insurance or services in order to carry out its redevelopment activities. Health and Safety Code Section 33133 authorizes a redevelopment agency to accept assistance from any public or private source for the agency's activities, powers and duties. The Redevelopment Agency was established for the purpose of improving, rehabilitating and redeveloping the blighted areas constituting the Redevelopment Project Area pursuant to the adopted Redevelopment Plan, and the Redevelopment Agency entered into the Loan Agreement with the City in order to provide for the staffing services, equipment and facilities required to carry out its duties under the Community Redevelopment Law and the Redevelopment Plan.

b. Repayment to the City of amounts loaned to or advanced on behalf of the Redevelopment Agency to further the Redevelopment Agency's redevelopment activities.

c. Repayment to the City of amounts loaned to or advanced on behalf of the Redevelopment Agency for the 2009-10 and 2010-11 SERAF payments.

4. Conditions Precedent to Repayment. The Parties understand and agree that, pursuant to the Dissolution Act, the Loan Agreement will be deemed to be an "enforceable obligation" only after completion of the following actions:

a. The Successor Agency shall have been issued a finding of completion by DOF pursuant to Health and Safety Code Section 34179.7; and

b. The Successor Agency shall have applied for and the Oversight Board shall have approved the Loan Agreement, and made a finding that the loan of funds to the Redevelopment Agency under the Loan Agreement was for legitimate redevelopment purposes.

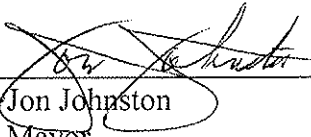
The Parties acknowledge and agree that DOF has issued a finding of completion to the Successor Agency pursuant to Health and Safety Code Section 34179.7. The Successor Agency and City shall cooperate in providing any documentation and evidence to the Oversight Board as necessary to obtain from the Oversight Board approval of the Loan Agreement, together with a finding that the loan of funds by the City to the former Redevelopment Agency under the Loan Agreement was for legitimate redevelopment purposes.

5. The Parties acknowledge and agree that the repayment of amounts owing to the City under the Loan Agreement shall be subject to the limitations and restrictions set forth in Health and Safety Code Section 34191.4(b).

[Signatures on following pages]

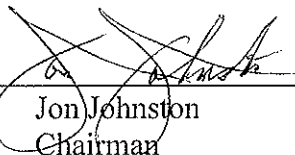
IN WITNESS WHEREOF, the City and Successor Agency have executed this Amendment as of the date first set forth above.

CITY OF SHAFTER

By: 

Jon Johnston
Mayor

**SUCCESSOR AGENCY TO THE
DISSOLVED SHAFTER COMMUNITY
DEVELOPMENT AGENCY**

By: 

Jon Johnston
Chairman

