

SUCCESSOR AGENCY RESOLUTION NO. _____

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO AUTHORIZING THE ACCEPTANCE OF FUNDS FROM THE CITY OF FRESNO FOR LEGAL EXPENSES, AND AUTHORIZING EXECUTION OF A LOAN/FUNDING AGREEMENT

WHEREAS, Health and Safety Code Section 34171(d)(1)(F) authorizes the city that formed a redevelopment agency (“Sponsoring Jurisdiction”) to provide funds to the successor agency to the dissolved redevelopment agency for payment of legal expenses related to civil actions initiated by the successor agency, including writ proceedings, challenging the validity of Parts 1.8 and 1.85 of Division 24 of the Health and Safety Code (the “Dissolution Law”) or actions taken pursuant thereto; and

WHEREAS, Health and Safety Code Section 34171(d)(1)(F) further provides that if the successor agency obtains a final judicial determination granting the requested relief, the funds provided by the Sponsoring Jurisdiction shall be deemed an enforceable obligation that may be repaid in accordance with the terms set forth in Health and Safety Code Section 34173(h), but if the successor agency does not receive such determination, the funds shall be considered a grant and not eligible for repayment; and

WHEREAS, Health and Safety Code Section 34173(h) provides that with respect to the repayment of funds provided by a Sponsoring Jurisdiction to a successor agency: (i) interest shall be calculated on a fixed annual simple basis at a rate not to exceed the most recently published interest rate earned by funds deposited into the Local Agency Investment Fund during the previous fiscal quarter, (ii) repayments shall be applied first to principal and then to interest, and (iii) repayment shall be subordinate to other enforceable obligations approved on the successor agency’s Recognized Obligation Payment Schedule (“ROPS”); and

WHEREAS, the Successor Agency to the Redevelopment Agency of the City of Fresno (the “Successor Agency”) will incur legal expenses related to two civil actions contesting the interpretation and application of the Dissolution Law with respect to the reinstatement and repayment of loans provided by the City of Fresno (the “City”) to the former Redevelopment Agency of the City of Fresno (the “Redevelopment Agency”); and

WHEREAS, the Successor Agency has insufficient funds available to pay such legal expenses.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Successor Agency to the Redevelopment Agency of the City of Fresno as follows:

1. The foregoing Recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

2. The Successor Agency hereby approves the acceptance of funds from the City of Fresno in an amount up to a maximum of Two Hundred and Twenty Thousand Dollars (\$220,000), in accordance with the following terms: (i) up to \$100,000 of the funds may be used to pay legal expenses incurred in connection with the defense of an appeal filed by the Department of Finance (“DOF”) of the ruling issued by the Sacramento Superior Court in Case Number 34-2015-80002174 (Court of Appeal Case Number C083084) -- a matter involving reinstatement of loans provided by the City of Fresno to the Redevelopment Agency of the City of Fresno, and up to \$120,000 of the funds may be used to pay legal expenses incurred in connection with the filing and pursuit of a Petition for Writ of Mandate challenging DOF’s position regarding the interest rate that applies to repayment of reinstated loans provided by the City of Fresno to the former Redevelopment Agency of the City of Fresno, and (ii) if the Successor Agency receives a final judicial determination granting the Successor Agency’s requested relief in one or both such matters, the funds advanced for such successful matter(s) shall be treated as a loan which shall be listed as an enforceable obligation on the Successor Agency’s ROPS, and shall be repaid in accordance with the terms set forth in Health and Safety Code Section 34173(h).

3. The Executive Director of the Successor Agency is hereby authorized and directed to execute such instruments and to take such actions as necessary to effectuate the intent of this Resolution, including without limitation the execution of a Loan/Funding Agreement substantially in the form attached to this Resolution as Exhibit A.

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I, YVONNE SPENCE, Ex-Officio Clerk to the Successor Agency to the Redevelopment Agency of the City of Fresno, certify that the foregoing Resolution was adopted by the Successor Agency at a regular meeting held on the _____ day of _____, 2017 by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

YVONNE SPENCE, CMC
Ex-Officio Clerk to the Successor Agency to the
Redevelopment Agency of the City of Fresno
By:_____

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
Ex-Officio Attorney to the Successor Agency to the
Redevelopment Agency of the City of Fresno

By:_____
Exhibit A: Loan/Funding Agreement