

RESOLUTION NO. 2012/13-05

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ARCATA COMMUNITY DEVELOPMENT AGENCY REAFFIRMING THE ENFORCEABLE OBLIGATION TO SANDPIPER MOBILE HOME PARK

WHEREAS, Section 34179.5 of the Health and Safety Code (H&SC) requires the Successor Agency to the Arcata Community Development Agency prepare a housing due diligence report (DDR) to establish projects considered valid enforceable obligations and to determine the unencumbered Low- Moderate-Income Housing Fund (LMIHF) available for distribution to the taxing entities; and

WHEREAS, the Housing DDR was approved by the Successor Agency on September 19, 2012; and by the Oversight Board on October 11, 2012; and

WHEREAS, the Department of Finance (DOF) final determination letter of December 15, 2012, rejected the Oversight Board's determination established in the Housing DDR that the Sandpiper Mobile Home Park (SMHP) project was an enforceable obligation for which the transferred monies committed to the project must be used; and

WHEREAS, the former RDA entered loan agreements establishing the enforceable obligation to fund the affordable housing project commonly known as the SMHP on November 21, 2006, and October 1, 2010; and

WHEREAS, the October 1, 2010, loan agreement Section 2.d provides that the operational cash shortfall is an obligation of the loan agreement, which is a duly acknowledged enforceable obligation of the former RDA, and that this obligation is established until the project is completed and fully occupied, the terms of the HOME Program & RDA Regulatory Agreement of same date are satisfied, and the affordable housing requirements established by the HOME Program funding committed in the November 2006 loan are satisfied; and

WHEREAS, the October 2010 loan agreement Section 2.d was an RDA commitment to ensure the SMHP project was viable by reevaluating its contribution from the LMIHF and the Project Fund; and

WHEREAS, beginning in 2007, the City diligently endeavored acquiring other funding sources, including HOME Program Revolving Loan Funds, and after four years of attempting to satisfy the HOME Setup requirements, the City acquiesced and sought other funding to fulfill the enforceable obligation to the SMHP; and

WHEREAS, on March 9, 2011, the RDA entered an agreement with the City of Arcata to fulfill the obligations established in the October 1, 2010 loan agreement, HOME Program Regulations, and HOME & RDA Regulatory Agreement of same date, the City entered loan agreement amendments effective September 7, 2011, and June 6, 2012, under the authority of the March 2011 RDA-City agreement to satisfy the former RDA's obligation established in October 2010; and

WHEREAS, the Successor Agency approved the enforceable obligation to the SMHP in the DDR approved on September 19, 2012, and the Oversight Board approved the enforceable obligation in Resolution 2012/13-03; and

WHEREAS, the Oversight Board acknowledged the enforceable obligation to either complete the project or to fund the operational cost specified in loan agreement section 2.d at a cost of approximately \$5,000 per month for the term of the agreement; and

WHEREAS, the fiduciary responsibility entrusted the Oversight Board per H&SC Section 34179(i) bears on the final determination of the Oversight Board per Resolution 2012/13-03 adopting the Housing DDR and affirming the enforceable obligation of the SMHP project; and

WHEREAS, the DOF determination is in conflict with local determinations made on the basis of enforceable obligations that satisfy the fiduciary responsibility of the Oversight Board; and

WHEREAS, the SMHP is nearly complete and occupancy is imminent but prevented by liens recorded by contractors on the project due to the determination of the DOF with respect to the SMHP project; and

WHEREAS, \$194,309.15 has been incurred on the project and invoiced, but not paid; and

WHEREAS, \$380,660.23 additional funds are required to complete the project; and

WHEREAS, \$182,151 will be available to redistribute to the taxing entities from the loan funds committed; and

WHEREAS, if the project is completed, the sale of the units will generate approximately \$958,400 that will be available for distribution to the taxing entities; and

WHEREAS, the City has already transferred \$306,927 to the County for redistribution to the taxing entities;

NOW THEREFORE, BE IT RESOLVED by the Oversight Board of the Successor Agency to the Arcata Community Development Agency as follows:

1. The above recitals are true and correct and incorporated herein;
2. The transferred funds should be used as dedicated and promised in the October 1, 2010 loan agreement as amended by amendments nos. 1 and 2, both of which are hereby ratified;
3. Upon project completion, all unused loan proceeds should be transferred to the County Controller for distribution to the taxing entities;
4. All proceeds from the sale of the units should be transferred to the County Controller for distribution to the taxing entities;
5. Direct staff to transmit the resolution to the Successor Agency
6. This action would enable the City to redistribute approximately \$1.4M to the taxing entities

pursuant to the DOF Final Determination

This Resolution shall be effective upon its adoption.

Dated: January 11, 2013

ATTEST:

APPROVED:

Secretary and Clerk, Oversight Board of the
Successor Agency to the Arcata Community
Development Agency

Chairperson Pro Tem, Oversight Board of the
Successor Agency to the Arcata Community
Development Agency

SECRETARY'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of **Resolution No. 2012/13-05**, passed and adopted at a regular meeting of the Oversight Board of the Successor Agency to the Arcata Community Development Agency, City of Arcata, County of Humboldt, State of California, held on the 11th day of January, 2013, by the following vote:

AYES: Cowan, Lindsey, Lovelace, Oetker, Hauser

NOES: None

ABSENT: Wheetley, Hanger

ABSTENTIONS: None

Secretary and Clerk, Oversight Board of the
Successor Agency to the Arcata Community
Development Agency